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# MUNICIPAL WASTEWATER TREATMENT CONSTRUCTION GRANTS PROGRAM

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# HEARINGS

BEFORE THE

SUBCOMMITTEE ON
ENVIRONMENTAL POLLUTION
OF THE
COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE
NINETY-SEVENTH CONGRESS
FIRST SESSION
ON

## S. 975

A BILL TO REVISE AND EXTEND CERTAIN PROVISIONS OF THE FEDERAL WATER POLLUTION CONTROL ACT, AS AMENDED, FOR ONE YEAR, AND FOR OTHER PURPOSES

AND

## S. 1274

A BILL TO AMEND TITLE II OF THE CLEAN WATER ACT, AND FOR OTHER PURPOSES

JUNE 29, 1981—WARWICK, R.I.
AUGUST 10, 1981—SANTA FE, N. MEX.

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# MUNICIPAL WASTEWATER TREATMENT CONSTRUCTION GRANT PROGRAM

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**MONDAY, JUNE 29, 1981**

U.S. Senate,
Committee on Environment and Public Works,
Subcommittee on Environmental Pollution,
*Warwick, R.I.*

The subcommittee met at 9:35 a.m., in the auditorium, Community College of Rhode Island, Warwick Campus, Hon. John H. Chafee (chairman) presiding.

Present: Senator Chafee.

## OPENING STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator Chafee. Good morning. We want to welcome everybody here to this hearing by the Senate Subcommittee on Environmental Pollution.

First, I would like to say how pleased we all are—I am particularly—to have my distinguished colleague, Senator Pell, here, and Senator Pell will be the first witness.

I would also like to extend our appreciation to the State of Rhode Island, and particularly the board of regents for the use of the auditorium here at this wonderful college. I keep calling it Rhode Island Junior College. It is Community College of Rhode Island, which I have a special affection for. When I was in the State house we started the junior college concept and also obtained this property. Actually, to obtain it is unfair. We were given it by the generosity of Robert Knight, and then started the construction of this magnificent facility.

I would like to take the opportunity to introduce some of our staff members because various members of the audience might wish to talk to them. Bob Hurley is here, who is on my personal staff and deals with environmental matters. From the committee staff is Bill Corcoran, who deals particularly with this subject we have before us today, that is, the wastewater construction grants. Ann Garrabrant is here also from the staff in Washington, and, of course, Becki Johnson, who is handling the steno work.

Just to tell you how we will proceed, we will have a little break to let Becki catch her breath and get a little rest at 11 o'clock. We have quite a group of witnesses, and we are all delighted that each one has taken the trouble to appear. We would ask that each person keep his or her statement down to 5 minutes because there are a variety of people who with to testify. Each one I know has something significant to contribute. Any statement you have we will place in the record so there is no concern about that. In order to give everybody a chance and so we can be through around 12:30, quarter to 1, it will be necessary to keep statements short.

I want to welcome Senator Pell, but first let me make a couple comments, if I might.

Our focus this morning will be on the proposed changes in the construction grants program. President Reagan has announced proposed budget cuts and said the administration will provide no money at all—zero money—for wastewater construction grants unless certain reforms were enacted into the program.

I believe this program is one of the most important environmental projects this country has undertaken. It is not a public works program. It is an environmental program. I feel strongly it should be continued. I have seen the great need of States, such as our own State here, for modern, effective sewage treatment plants. It is my goal to reform the program so that it will run more smoothly, will be cost efficient, and will become more stable.

In offering reform for the program President Reagan has suggested a funding level of $2.4 billion a year. Currently, it has been operated at $3.4 billion—in other words, $1 billion more than proposed by the President.

I agree with the funding level suggested by the administration, but also I find that several provisions of the bill that the President submitted are unacceptable as far as I am concerned. That is why I introduced a separate bill, different from that of the administration.

The administration's bill had two principal points I disagreed with and I feel would have greatly slowed our progress in Rhode Island. The first is the provision that I put into the law last year dealing with prefinancing. Prefinancing, as you know, would permit the State to go ahead with a substantial bond issue, as we did last fall, make the improvements, and then be reimbursed by the Federal Government. That, of course, is the system that we used in funding for the interstate highway program.

I saw Angelo Marcello here. He was the public works director for the State of Rhode Island when we built the greatest portions of our interstate program. As he, and many of the rest of you know, we prefinanced that. The State went out and made substantial borrowing under its own bond, went ahead and built the program, and we beat inflation, and were reimbursed by the Federal Government.

The prefinancing for this sewage construction program is currently in the law. The administration would eliminate that, which I am opposed to.

The second provision of the administration's program that I disagree with is the elimination of the funding for so-called CSO, combined sewer overflows. As you know, the principal problem we have here in Narraganset Bay stemming from the Providence sewerage system is all the groundwaters and waste and runoff waters from the streets when there is a storm, pouring water into our sewers then going into the treatment plant, and after a storm the plant cannot handle it, thus it just pours into the bay along with the regular raw sewage. So in the administration's bill there is no money for handling of this combined sewer overflow, whereas in the bill that I have come forward with we have $200 million a year for the construction of combined sewer overflow facilities.

In my bill I have a provision that would gradually reduce, over a series of steps, the Federal share. Currently, where it is 75 percent, I would gradually step that down to 55 percent. The purpose of this being to encourage the States to use their funding on the most worthwhile projects and to fund only the plants that would achieve our goal, which is to clean up present pollution.

One of the good features of the administration's bill and in the bill that I have submitted, which is a repetition in that particular portion of the administration's bill, is that we do not provide for future growth. What we are trying to do is handle present water quality problems, and future growth should be funded by that community that is going to have the future growth, which seems to me to make sense. When you fund for future growth you encourage the community to go out and build interceptors out in the country, out in the farmland, and the side effect is to encourage the spread of suburbia, the spread of the urban complex out into farm areas and spoil the precious farmland.

Another provision that is quite controversial that I have is to require a consulting engineer to warrant his or her work or equipment in order to insure that the plant operates. As you know, there has been a good deal of objection by the GAO that the plants that we build do not work.

Another part of my bill, and I mentioned this previously, is a discretionary fund for CSO's.

What we are trying to do is take the administration's bill, take my bill, and any other suggestions that come forward and devise the best possible piece of legislation that is acceptable not only to the Congress, but to the administration. I think it is very important to realize we have to work with the administration. We will be focusing today on the impact of these proposed reforms on the pollution problems of Rhode Island and neighboring New England. The treatment plant at Field Point is one of New England's top two water pollution priorities. It is an example of where Federal dollars should best be spent to benefit water quality. Some have estimated the cost of upgrading Field Point at $130 million, which would include the plant itself.

We in this subcommittee have just completed 6 days of hearings in Washington as to which is the best way to proceed. We have heard from industries, cities, States, and all kinds of engineering associations. Each seems to have a different point of view, but all agreed on one point—that, if the program is to be funded, some changes need to be made. Everybody agreed that we have got to make some changes. And in order to have the changes reflect the needs of Rhode Island it is important for me to hear your ideas and suggestions about the future. Your remarks will be taken down by Ms. Johnson, the reporter, and the record of the hearing will be distributed to other members of the subcommittee. After the hearing we will take everything into consideration, we will mark up the bill in the subcommittee and full committee and take it to the floor. I will do my part to make certain that Rhode Island and other States receive their fair share. I look forward to hearing your views, and I thank you all for being here.

Senator Pell, we are delighted to see you here and we look forward to your comments.

## STATEMENT OF HON. CLAIBORNE PELL, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator PELL. Thank you very much, Mr. Chairman, for this opportunity to be with you to discuss the future of our Nation's antipollution efforts and to hear the views of Rhode Island and New England.

As chairman of the Environmental Pollution Subcommittee, you have done an excellent job in concentrating on the top priority in the Clean Water Act—the construction grants program—and I can't think of any topic of greater importance or more pressing to our own State of Rhode Island, and I congratulate you on your work in this regard.

All of us have grown, I think, impatient with the slow pace of progress toward the clean water goals of fishable, swimmable water, particularly in Rhode Island. We are reminded every time we cross one of our rivers, particularly, or encounter certain parts of our wonderful bay.

Rhode Islanders expressed their impatience and gave a clear mandate to clean up the waters of Narragansett Bay when they overwhelmingly approved the largest bond issue in the history of our State—more than $87 million for the construction grants program. A great bouquet goes to "Save the Bay" and Trudy Coxe and all who worked so hard in getting that through.

The Reagan administration, on the other hand, has proposed legislative reforms, massive cutbacks, and a nationwide slowdown in this program. I know that, as an advocate of sound environmental legislation, you, Mr. Chairman, find it painful to see the cuts made in the Nation's premier antipollution program. Although we all recognize certain reforms must be accomplished, you have made the best of a bad situation, and your legislation, S. 1274, would blunt the impact on Rhode Island by retaining funding levels, Federal reimbursement provisions, and recognizing the need for Federal aid to resolve the combined sewer overflow problem.

In my view, the construction grants program should bear its fair share of cuts, as part of our efforts to control Federal spending to help reduce inflation. But, I personally have grave reservations about the proposed cut in construction grants authorizations from the current $5 billion to $2.4 billion, which is about a 50-percent cut—a cut that would assure a massive drop in nationwide funding—and about the phased reduction of Federal assistance from the current 75-percent level to only 55 percent by the fall of 1984.

On the other hand, it is clear that the cost of the program needs to be controlled by eliminating wasteful spending, such as costly plans that one engineer has described as "glass palaces," and by cutting the layers of redtape that delay both construction and payment.

I join with you in opposition to the administration's proposal to eliminate Federal funding for the treatment and control of CSO's. In the oldest cities, like Providence, we have a tremendous example of this as storm and sanitary sewers were combined, and every time there is a heavy rainfall the water from the storm sewer rushes into the treatment plant and overloads the system. The cost of solving the CSO problem is enormous and clearly does require Federal assistance.

I also join with you, Mr. Chairman, in taking exception to the administration's proposed repeal of the prepayment provision of the Environmental Protection Agency's authority to reimburse States and communities that try to get a jump on inflation by funding construction in advance of Federal grants.

The administration's decision has cut fiscal 1981 funding in Rhode Island from a $17 million level to less than $13 million. Under S. 1274—your bill—Rhode Island would receive almost $20 million in fiscal 1982 and would be eligible for CSO funding. I think you can all see how much better off we would be with Senator Chafee's bill than without it. Rhode Island essentially would receive a larger slice of a smaller pie. The continued funding, which would be compatible with levels under previous administrations, would insure that Rhode Island would continue to preserve Narragansett Bay and the vast natural resource it represents.

I thank you, Mr. Chairman, for your courtesy and hospitality in giving me this chance to give my views. I look forward to hearing the views of others who are better informed in the course of the morning.

Senator Chafee. Thank you very much, Senator Pell. I know you have a busy schedule this morning. So if at some point you have to leave we are grateful that you came here and we thank you for taking the trouble to be here.

Now we will start with the witnesses: Mr. Edward Wood from the State of Rhode Island, Mr. Robert Moore from Connecticut, and Mr. Anthony Cortese from Massachusetts. This will be our first panel, and why don't we take you as listed, gentlemen. Mr. Cortese is not here yet. Mr. Thomas McMann will be at the table. We are delighted that joining Mr. Wood at the table is Mr. Carleton Maine, who is hip deep in wastewater treatment. Go ahead, Mr. Wood.

## STATEMENTS OF W. EDWARD WOOD, RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, ACCOMPANIED BY CARLETON A. MAINE, ASSISTANT DIRECTOR FOR REGULATION, RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT; ROBERT MOORE, DIRECTOR OF WATER COMPLIANCE UNIT, CONNECTICUT DEPARTMENT OF ENVIRONMENTAL PROTECTION; AND ANTHONY D. CORTESE, COMMISSIONER, DEPARTMENT OF ENVIRONMENTAL QUALITY ENGINEERING, COMMONWEALTH OF MASSACHUSETTS, ACCOMPANIED BY THOMAS McMANN, DIRECTOR, DIVISION OF WATER POLLUTION CONTROL, DEPARTMENT OF ENVIRONMENTAL ENGINEERING, COMMONWEALTH OF MASSACHUSETTS

Mr. Wood. Thank you very much, Senator Chafee. I am testifying today on behalf of the Rhode Island Department of Environmental Management, and, as you pointed out, I have with me Mr. Carleton Maine, assistant director for regulation with the department, who has been involved in the construction grants program as long as there has been one, I think, on the Federal and State level. Mr. Maine has written a formal statement for the department which I will submit for the record. But I wish to at this time for the sake of brevity just briefly outline our opinions on the major issues.

Of particular importance to Rhode Island, as Senator Chafee and Senator Pell have both mentioned, are the prefinancing, or reimbursement, provisions which were passed as an amendment to the Federal act through the efforts of the Rhode Island delegation. It is my understanding that, Senator Chafee, your bill would keep these reimbursement provisions intact, while the administration's bill would repeal them. I would like to emphasize again the importance to Rhode Islanders, who have authorized the largest bond issue in the history of the State to clean up Narragansett Bay as a source of pollution, that these reimbursement provisions be not only retained but strengthened and fully funded.

It is further my understanding these important reimbursement provisions presently have been all but nullified by changes in the appropriations act. I would urge all members of the Rhode Island delegation to do everything in their power to insure the programs can be realized.

Further, it is recommended that the industrial cost exclusion provisions of the Federal act be repealed, as proposed in the House bill H.R. 2957 introduced by Representative Howard. Industries should be required to pay their fair share of operation and maintenance and to pretreat their waste where such wastes are found to be inimical to the sewage system or the contaminants pass through the treatment process and interfere with the use of the receiving waters.

The department concurs with section 5 of S. 975 and section 4 of S. 1274 which limit eligibility of projects for Federal participation to secondary treatment facilities and interceptors. Our support of this limitation, however, is dependent upon some provision within the act to allow combined sewer overflow corrections to be eligible, where corrections are found to be necessary to meet water quality standards. In some cases we can achieve more pollution abatement with combined sewers than spending money on other sewers. The discretionary funding proposed in your bill, Senator Chafee, would meet these needs well. If there is objection to funding this method of combined sewer overflow, we would emphasize some provision must be adopted allowing for Federal participation in combined sewer collection water where it is established to the satisfaction of the EPA Regional Administrator, first, that such corrections are most effective in abating water pollution; second, that they are necessary to meet the water quality standards of the area; and, finally, that they are in the fundable portion of the State's priority list.

The proposal to reduce the percentage of Federal participation in eligible projects as contained in S. 1274 is reluctantly supported. Accepting the reality there will be reductions in all Federal programs, I believe the Federal share should be reduced in the phased manner so essential projects may be treated equally. It is important to reduce the Federal share gradually so communities who have obtained financing in anticipation of present Federal levels can continue projects. Any delay will increase both the Federal and local share.

I agree with section 8 of both S. 975 and S. 1274 which limits Federal participation in construction to those facilities which are presently needed. However, local communities should be required, or at least encouraged, to construct facilities large enough to accommodate anticipated growth over the reasonable life of the facility. Under these provisions the community could fund the reserve capacity, but it is recommended that the cost of reserve capacity be determined as an incremental cost over the currently needed capacity, as opposed to the cost based upon the ratio of the capacity.

I enthusiastically endorse the concept of section 8 of S. 1274 which places definite responsibility upon the design engineer to insure treatment works will perform in accordance with the design specification for a 2-year period after completion of construction and initiation of operation. I also concur with the proposal to streamline the operation of the EPA construction grants program and speed the completion time. The construction grants program has become more and more complex and cumbersome. We therefore feel every effort should be made to simplify its operation.

Finally, although I know we are here speaking of the authorization bill rather than the appropriations bill, I would like to emphasize, along with Senator Pell and others, that we need greater funding than the 50-percent-cut funding proposed by the administration in order to complete projects in Rhode Island and other places across the country.

Thank you for the opportunity to address these issues.

Senator CHAFEE. Thank you, Mr. Wood. I think you put your finger on a point when you were discussing the prefinancing. The problem isn't all with the administration, but the problem is going to come as much from the Appropriations Committee as is going to come from the administration. The Appropriations Committees are very jealous about their prerogatives and they don't like to be committed to paying for something in the future. So I think that you are very wise to raise the point about the Appropriations Committees.

On the industrial cost exclusion, I am interested in that. We don't have that in our bill. That is the only thing in the House bill; as a matter of fact, there is nothing else. It just repeals the industrial cost exclusion. We have had a great deal of testimony on that. That really is even worse than the industrial cost recovery which we managed to repeal last year after a tremendous amount of effort. So I agree with you there.

I would point out this. In your final remarks you mentioned you think it should be funded at more than half of what it has been. Although it has been authorized in the past at $5 billion, I think once we got $5 billion. And even the prior administration was coming down to $2.5 billion. This administration, when they say $2.4 billion, that is not an authorization, that is an appropriation. In other words, they promise that as solid dollars if we make certain so-called reforms. So while it is down from $3.2 billion last year, it is not as dramatic as being down from $5 billion.

And I was interested to hear your comments about supporting, not enthusiastically—none of you are—but supporting the gradual reduction of the Federal share. It is my feeling that when you get a Federal share at 75 percent, you are not putting the pressure on the States, or even the communities, for the greatest amount of cooperation—by cooperation I mean intercommunity cooperation—or for the highest amount of community commitment to the success. It is Big Brother paying the greatest share of it. Secondly, many, many States themselves then go on to pay half of the non-Federal share, in other words, 12.5 percent. So the community is left paying 12.5 percent total, and that, it seems to me, has not involved as much commitment on the part of communities.

For example, Mr. Wood, could you comment on training? What are you doing in Rhode Island for training operators of the plants?

Mr. **Wood**. Well, after many years of effort, about 2 years ago we passed a bill in the legislature which requires licensing of all operators in the plants. It, of course, grandfathers in operators who are there to a certain degree. But in the past 2 years we have put in place a licensing procedure, which I think the effect of that has been much increased training in order to make sure people can pass the written and practical exams on the State level which are required for someone to work in a sewage treatment facility. It is beginning to pay off in terms of greater training for plant operators.

Senator **Chafee**. Senator Pell, you indicated you had no question of the witness.

Senator **Pell**. No questions.

Senator **Chafee**. Why don't we go ahead with Mr. Moore, and Mr. Cortese might be here. If not, Mr. McMann is.

## STATEMENT OF ROBERT MOORE

Mr. **Moore**. Thank you, Senator. I am Robert E. Moore, Director of Water Compliance Unit of the Connecticut Department of Environmental Protection in Hartford, Conn., and I am representing that agency.

Connecticut supports, in general, the testimonies presented before this committee by the Association of State and Interstate Water Pollution Control Administrators and by the New England Interstate Water Pollution Control Commission, of which we are members. However, we would like to take this opportunity to offer our comments and concerns on specific proposals in S. 1274 and S. 975.

The construction grant program under the Clean Water Act has come under question and its success has been inappropriately weighed against the "success" of the interstate highway construction program and other public works programs. The success of the highway program is measured by miles of concrete and asphalt weaving in and out, around and over our cities, towns, and counties. It is not measured against the cost and ease of operation and maintenance, the miles under repair, the miles meeting original design standards, the numbers of vehicles using the system, the number of failing alternative transportation modes such as railroad, the number of urban centers dying because of travel around the city, the amount of urban sprawl created along its paths and the amount of air pollution caused by the traffic.

The success of the water pollution program is not, however, measured by the miles of concrete and steel pipes laid underground carrying the wastewaters of our people to treatment, most times relieving water pollution and public health problems. It is not measured by the number of treatment plants where wastewaters formally went untreated or partially treated into our rivers, making them unfit for fishing or recreation.

Senator **Chafee**. Mr. Moore, you are going to have a tough time fishing the statement in 5 minutes.

Mr. **Moore**. I only have the first six pages.

Senator **Chafee**. You go ahead, but we will have to sound the gong in 5 minutes, of which there are 4 left. Go ahead.

Mr. **Moore**. It is not measured by the miles of stream achieving water quality standards allowing swimming and fishing where it had not existed for 50 or more years before. It is not measured by the life forms now living in our lakes, rivers, and estuaries, like the salmon and shad which have now returned to the Connecticut River.

The success of the program is being measured by 1 or 2 milligrams per litre of BOD test or suspended solids test or a chlorine residual over permit limits occurring once a month or once a year by people who do not understand the terms, let alone the design and operation of these complex sewage treatment works or the ability of the receiving waters to accept and assimilate the discharging waters. It is being measured by the bureaucratic process created by the U.S. EPA in administration of the program. It is being measured by cases of excess capacity and sprawl caused by sewer construction.

The success of the program as compared to other public works programs is not being fairly or accurately weighed, and I see this being used to justify lower or zero funding and unwarranted changes in the management of the program. The true measure of the success needs to be accurately addressed before changes proposed be implemented and the program remain intact with previous funding commitments in place.

Zero funding for fiscal 1982 will disrupt Connecticut's water pollution control program severely. All of our fiscal year 1981 funds will be obligated by October and no new projects would start until fiscal year 1983. The first $15 million, or about 60 percent of Connecticut's 1983 allotment would be directed to project increased which will have accrued; the remaining would be committed to one project, the city of New Haven. This action adds to the problems of erratic funding which have plagued the grant program under the Federal Water Pollution Control Act, as amended, since its beginning. The impacts are more intense in States that routinely obligate all their funds and have large needs. Zero funding may cause projects which have had to be phased to go uncompleted and previous expenditures for such projects wasted with no benefits to water quality. Under present priority systems, some of these phased projects may not be picked up again for years.

The proposed funding level of $2.4 billion does not reflect the needs of Connecticut or the country. At this level, with no fiscal year 1982 appropriations, only four general projects and two small community projects in Connecticut will be funded between fiscal year 1982 and fiscal year 1986. Six projects out of 107 identified projects, or $106 million our of $856 million, does not reflect a Federal commitment to achieving the goals which it established and remain untouched in these bills before you except the date to achieve secondary treatment. Fishable-swimmable water quality will not be achieved in the Quinnipiac River, the Hockanum River, the Naugatuck River, Connecticut River, Thames River, New Haven Harbor, Bridgeport Harbor, Lower

Housatonic River, or Norwalk Harbor. The total cost of the needed projects cannot be borne alone by the municipalities or the State. The Clean Water Act's goals, the goals of the Federal Government must reflect its commitment. The people in Connecticut and the country cannot be led to expect fishable-swimmable waters or zero discharge of pollutants will be achieved by 1983 with the proposed funding level. They will not.

With specific regard to the proposed bills, I would make the following brief comments.

1. Eligibility. Combined sewer overflows must remain eligible. CSO problems alone presently prohibit the Connecticut River, the Thames River, New Haven Harbor, Bridgeport Harbor, and Norwalk Harbor from meeting fishable-swimmable goals. Planning, and in some cases design, is complete for most of the problem areas and phased construction underway in others.

2. Step I and II grants. Grants for planning and design should continue to be made. Funding of these steps allows a community to define and address its needs and allows it or the State to mandate the construction of needed facilities with or without funds. Facility planning is the only accurate mechanism to determine water pollution needs, costs, and benefits and allows long-term management of construction needs and funds. In small communities, it provides the mechanism to develop innovative and alternative disposal systems and local management and prevention schemes.

3. Federal grant share. A reduced Federal share will tend to insure high-quality projects and maximum local involvement. The share should be reduced only by project category as determined by the States.

4. Allotment formula. The allotment formula should be based on treatment facilities (secondary and AWT), interceptors, CSO, and, where appropriate for small communities, collectors, and reflect the most current needs survey and population.

5. State management assistance grants. The wording of the proposed bills would provide 1 percent of the sum of unexpended obligations and unobligated allotments available to the States as of the first day of the fiscal year. The intent of the 1 percent of unexpected funds seems clear from the proposed wording in the bills. The intent in the use of unobligated amounts is not. The 1 percent is to be applied at the start of the fiscal year, but historically no allotments have been made until several months into the fiscal year. Considering the proposed reductions in the level of program funding, the fast-moving, well-managed grant programs in States like Connecticut will obligate all its yearly allocation before the beginning of the next fiscal year, therefore leaving no unobligated funds to be applied to the program grant. It should be clear that the intent is to apply the 1 percent to the upcoming allotment independent of the date. S. 1274 provides for that situation in that it requires allotments after 1984 to be made before the beginning of the fiscal year.

Senator CHAFEE. Mr. Moore, your time is up. In the interests of friendly relations with Connecticut, we will give you 2 more minutes.

Mr. MOORE. Thank you very much, Senator.

Going to innovative and alternatives and rural set-asides, such set-asides should be optional. To utilize 3 percent reserve requires that 22.5 percent of all project dollars be innovative and alternative projects. This won't be achieved in Connecticut.

Compliance deadlines. S. 1274 extends the requirements of 301(i) from July 1, 1983, to July 1, 1988. This necessary but at the level of funding proposed will not be achieved either. This extension is not accompanied by other necessary goal changes which I really feel are necessary.

Water quality management. S. 1274 provides for 0.5 percent of the construction grant allotment to be used for water quality management planning. Connecticut supports this concept in general, but offers these suggestions: The $12 million provided by this section should be added to the 106 program grant or go as a direct grant for water quality management plant, and section 208 should be deleted from the act except for the rural clean water program and all planning requirements and programs incorporated in the provisions of 303(e) and the State should have full control over planning direction and needs and which planning agencies are to be involved. We recommend this regardless of what the funding levels are.

We have a brief statement on water quality standards.

Senator CHAFEE. Why don't you discuss your disagreement with Mr. Wood on the engineer's treatment works warranty. We are having a terrible time with that. The evidence we are receiving from our witnesses is split. We have 50 percent saying it is good and 50 percent saying it is bad.

Mr. MOORE. I have no real feeling on this. I feel in Connecticut it will raise project costs and probably reduce innovation and alternative designs, and probably reduce competitive selection of equipment. I think it would be well worthwhile to have some warranty, but I think it is going to raise the cost.

Thank you very much for this opportunity, and I really appreciate this hearing being held in Rhode Island where our local concerns can be more easily expressed.

Senator CHAFEE. Thank you, Mr. Moore, for coming here. There is no question but there will be funding for fiscal year 1982 if Congress does its part. The administration has set aside the money. They have made the commitment. The Budget Committees have proposed for this money to come up, although it is not in the budget now. They know it is going to be there. So if we do our part in the Congress the fiscal year 1982 money will be there even though the administration has said zero funding.

Next is Mr. McMann.

## STATEMENT OF THOMAS McMANN

Mr. McMANN. Thank you, Mr. Chairman, Senator Pell, members of the committee. My name is Thomas McMann. I am director of the Division of Water Pollution Control in the Department of Environmental Quality Engineering in Massachusetts. This morning I am representing Anthony Cortese, who is the Commissioner of that department. I am pleased to be before your distinguished committee to testify on an important piece of legislation, S. 1274.

The subject of this bill is critical to the environmental future of our States and the Nation as a whole. I want to commend your efforts and those of your subcommittee in initiating legislation to help simplify a complex, stringently regulated Federal program which is in drastic need of administrative reform. Therefore, I wish to present my opinions on specific provisions of the bill.

1. Reduced funding. This provision would reduce the Federal share from 75 percent to 65 percent after September 30, 1981 and to 55 percent after 9.30/84 to allow the Federal Government to fund more projects with the reduced appropriation. Nevertheless, it will not reduce the total cost of the projects. By streamlining the program and reducing the effects of inflation we can truly make the Federal dollars go further and not just shift the burden to State and local government.

Therefore, I would like to recommend that Congress keep the Federal share at 75 percent and require the administrator to file a report to Congress, within 6 months, with specific recommendations for reducing the time required to complete a project by 30 percent. This reduction is critical in that the savings which can be realized by this time reduction will offset the amount of money which President Reagan proposes to cut.

2. Elimination of step I and step II funding. The proposal should be changed in two ways to prevent disruption and accomplish its goal. First, the proposal should include clear language which would prevent EPA from making a community go back to facilities planning step I, once it has completed the design phase step II. Otherwise it could perpetuate the same delays that are inherent in the program today. Secondly, there should be a period of transition. This can best be accomplished by placing the restrictions on fiscal 19. 2 funds and not basing it on the calendar date. That would allow States to use fiscal 1981 funds to minimize any hardships created by the changes.

3. Funding of combined sewer overflow treatment. We definitely support the continued funding of combined sewer overflow treatment. In water bodies such as Boston Harbor, the Marrimack River, and the Connecticut River combined sewer overflows are currently the primary sources of pollution. Therefore, the amendments must be expanded to include rivers as well as bays and estuaries. We must support spending money to achieve the best water quality and public health improvement for the type of projects that give us the greatest environmental improvement for the least dollars expended. Massachusetts in order to achieve its goals must have categorical and project eligibility discretion.

4. Innovative/alternative technology. The mandatory set aside should be changed to a voluntary basis. This will allow for greater advancement of true I/A technologies without major concern for loss of set-aside funds. The decision as to whether or not a technology is considered alternative or innovative should be a State's decision and not the Federal Government's.

5. Grant management assistance—205(g). In order for the States to continue adequate management of the construction grants program, sufficient funds must be provided by Congress. Under delegation, Massachusetts has developed a competent staff of well-trained professional engineers and support personnel to effectively administer and manage this program. The momentum which Massachusetts has established in attacking its water pollution problems has to be main-

tained. We are concerned that under the administration's proposal sufficient moneys will not be available for that purpose. We therefore solicit your support for statement management assistance predicated upon 2 percent of the congressional authorization.

In light of the current financial situation confronting the new administration and the realization that the current construction grants program must be cut back to a manageable $20–25 billion nationwide, all of us who are concerned with protecting the environment for the present and future generations must make every effort to assure that the limited funds available will be utilized in the most cost-effective manner for the protection and enhancement of our most valuable water resources.

For Massachusetts and other States, this can be attained by allowing the States to assume a primary role in deciding which type of future project will be necessary to most effectively solve our many remaining water quality problems. Massachusetts, for example, has a number of combined sewer overflow treatment and replacement projects that when constructed will improve more miles of coastline and tributary rivers and streams than projects in the currently contemplated eligible categories of I, II, and IVB—secondary treatment plants, advanced wastewater treatment plants, and interceptors.

In an era of financial crisis, we believe it is essential that the States retain the authority to determine what categories and what projects should receive construction grant funding with only minimal overviews from the Federal Government.

Mr. Chairman, Commissioner Cortese has just arrived. I am halfway through the presentation and, based on your earlier request that we keep it to 5 minutes, I was going to skip the next part of the testimony which essentially tells about progress in Massachusetts and, second, dispels, we think, many of the criticisms of the GAO report in terms of proper operation and maintenance of sewer treatment facilities.

Senator **Chafee**. Well, Mr. McMann, Mr. Cortese has made a long trip and we are delighted he is here, and we are going to give him a full 5 minutes, to show we bear no grudge over what you did to Roger Williams.

Mr. Cortese, you may proceed.

## STATEMENT OF ANTHONY CORTESE

Mr. **Cortese**. Thank you. First, let me apologize. I am late because I did have a late night. However, it was not the kind where you have fun. We were debating the State budget—and it has to be passed by Wednesday morning. There are some parts as a result of proposition 2½ in Massachusetts which affect us tremendously.

Senator **Chafee**. We have many evils in this part. Fortunately, we don't have proposition 2½.

Mr. **Cortese**. I would rather not take very much time.

Senator **Chafee**. Go ahead. You have 5 full minutes. We are glad you are here.

Mr. **Cortese**. Thank you very much.

This program has been very important to us in Massachusetts, as it has been in many other States, and one of the things we wanted to do this morning is just leave with you a couple of things we think demonstrate the ability of this program to really do what it was designed to do, which is to clean up the waters in this country.

In Massachusetts in the early 1970's, we can show you some dramatic pictures, which I would like to leave with you. We had some situations where rivers were absolutely—you just wouldn't want to live nearby them, you wouldn't want to be near them, you wouldn't want to take water for drinking purposes, and there were severe public health effects. In 1970, 16 percent of the stream miles in Massachusetts were meeting water quality goals. In 1980, that number is 45 percent. By 1983, we expect it to be 63 percent, and by 1986, if in fact we continue the national authorization at $2.4 billion a year, we should have 70 percent of the stream miles cleaned up. I would like to leave some of the pictures with you for exhibits because I think they do dramatically indicate the progress we have made.

Since 1972, most of this progress has been made as a result of Federal law. We acknowledge there have to be major changes in the program in order to meet the financial goals that the country needs, but, at the same time, we don't want to give up the water quality goals. I guess the essence of our testimony is if we can have more State flexibility with respect to deciding on what kinds of projects should be funded, because the water quality problems differ in different parts of the country, and if we can streamline the process for making decisions—for example, right now it takes 7 to 9 years from the point of contemplating that a plant is needed to actual construction—if we could cut that time by 30 percent, or just 2 or 3 years, we could save the amount of money that the Reagan administration is proposing and that you have proposed in your bill just in saving inflation construction costs alone, at an annual inflation cost of 15 percent a year for construction costs, without giving up any of the kind of oversight that is absolutely necessary.

A second factor that I would like to mention to you is the capability of States has changed dramatically in the last few years. I first started with the Federal Government in 1969, and I can tell you there is a great difference in State programs today than there was 10 years ago as a result of new Federal prodding and new money and as a result of pressures by the public and State legislature. The nature of the State beast has changed dramatically.

In our own department, just in the construction grants, we have 32 engineers with master's degrees in environmental engineering. I submit to you we have a capability of making the kind of decisions and overseeing the treatment plant processes so we can make sure the treatment plants are designed and operated properly.

The other thing I wanted to mention to you is we have heard and read through he GAO report in great detail with respect to concerns that treatment plants may not operate properly. Our experience in Massachusetts, yes, there are some treatment plants that don't operate properly, but the majority o operate properly and we have some vigorous programs to make sure they operate properly. Seventy-five percent are in compliance with all discharge limitations, and the 25 percent that are not we are working on to get them to improve their operation. We have a strong operator certification program. We have a strong technical assistance program, and the State is committed by putting up financial assistance to cities and towns for the operation and maintenance of treatment plants as well.

That basically is what I would like to indicate to you. Just to emphasize again the need for State flexibility to determine which kinds of projects are going to be funded is very important because, just as you have here in Providence, combined sewer overflows are a major problem for us in Massachusetts.

I might just as an aside mention if we had secondary waivers for six major projects into harbors in Massachusetts, that we would save $180 million in construction costs and $22 million in operational costs each year by not building the secondary plants, and it would make not one bit of difference in terms of water quality based on studies we have done with EPA and the municipalities. In exchange, if we could begin to fund some of the combined sewer overflow projects that have caused problems in rivers and harbors, we could do a lot more to cleaning up water quality and protecting the environment with the funding of those kinds of projects.

So again, State flexibility in making those kinds of decisions is what we are really looking for.

I just wanted to demonstrate this is a picture of the Nashua River back in 1970, and the yellow that you see is sludge, that is, mostly industrial sludge and also municipal, raw sewage just floating on top of the river. That is the same river today, and that same river today is one we are very proud of because it is fishable and swimmable and people can use it for other purposes as well.

Another example, again you just see sort of the yellow picture. This is the Miller's River in central Massachusetts, and after the building of treatment plants in the last 10 or 15 years this is the contrast in what it looks like.

Senator, we are not just picking these areas. This is the story all around Massachusetts. It is dramatic. But we haven't finsihed yet, and we need to continue this program. At the same time, we need to be able to cut it back to manageable size, and we acknowledge that.

Thank you.

Senator CHAFEE. Thank you, Mr. Cortese, for coming down. I want to thank each of you.

I think the point Mr. Cortese made about the time it takes for these programs, from 7 to 9 years from concept to completion, is the reason we are here, the reason we are having these hearings, the reason I have submitted a bill, and that we are pressing on with it. We just cannot have a program that takes this long. As was pointed out, your original commitment in dollars is just eaten up by inflation, which is particularly virulent in construction costs. So if we can get the time from concept to completion down by 40 percent, the savings to the Federal Government will be extraordinary.

By the way, Mr. McMann did an excellent job in your absence.

Mr. CORTESE. Good man.

Senator CHAFEE. Massachusetts was against the percentage cut in Federal funds, but Rhode Island and Connecticut said they reluctantly agreed. Mr. McMann testified he is against that.

Mr. CORTESE. I would indicate the principal reason is because of Proposition 2½, which is our major concern.

Senator CHAFEE. Maybe if we put enough pressure on they will repeal Proposition 2½.

The point you are making, Mr. Cortese, about block grants makes me a little nervous. How are we going to know? The Federal Government, who after all is putting up a substantial amount of money, has to have a way of monitoring that what you are doing is in fact improving water quality and not spending it on new collectors, and for example, splendid industrial parks. How are we going to know?

Mr. CORTESE. There are several procedures that can be used. First of all, the 205(g) delegation program is a perfect way of doing that. EPA should approve the generic design of the way we are going to do business and they should look at the kinds of categories we are going to fund. They should look at our prioritization list. Those kinds of things can be looked at up front, and then in post delegation they can go in an take and in-depth look at some of the treatment plants. Don't do that review up front on every plant to make sure, but come in and do a post delegation audit and look at whether or not we have done the job properly. If we haven't then take away the authority we have been given to make those kinds of decisions. All States do not have the same willingness and capability to do the job. We should not in the name of trying to protect the Federal interests use what I call the lowest common denominator, which is the approach EPA has used in the past, which is to treat all States as if they were the worst State. The programs differ tremendously. There is a difference in commitment on the part of States. And I think the kinds of review should be determined by the analysis that is done by the regional offices of EPA on the State's capabilities.

I know in our State we don't need the kind of oversight that has been going on in the past. It is duplicative and wasteful in terms of time. And we can show the results where the treatment plants are working in our State.

Senator CHAFEE. How are we going to know in determining the original eligibility for funds, we assign to Massachusetts. How are we going to tell if we go into the block grant concept? We have to have some parameters in determining what you need in allocating your portion out of the total Federal needs eligibility formula. How do we do that if we say, here, we will just give you some?

Mr. CORTESE. The combination of two things, the need survey and priorities list.

Senator CHAFEE. But the need survey, you might say you have need of collectors, but would you have that included in the original needs survey?

Mr. CORTESE. No; we don't want to fund collectors. We are funding collectors on the State level. We are not funding collectors in Massachusetts and have no intention of doing that. But we believe in the establishment of a priority list, which we would be glad to give to EPA because we give it to the public and have them comment on it; we have a priority system which is based on the advice of the Federal Government. I think that is the proper place for determination of where we are going to spend the money. As I indicated, we do not have any intention to spend money on things that are really going to fund growth. What we are interested in are things that are going to improve water quality. Combined sewer overflows are important to us. A lot of them need treatment or replacement. In some cases some advanced waste treatment plants are important. We want that flexibility to make those decisions because we think we are competent and capable of doing it, Senator.

Senator PELL. I just had one observation to make, and that is how far we are behind our allies in all this work of cleaning up our rivers. I was reminded of this in reading Mr. Moore's statement. The Thames River in England was unfishable. Now they are catching fish off of Parliament. Maybe your Thames River will be that way.

I am just here to support Senator Chafee in his efforts, and I congratulate all of you.

Senator CHAFEE. Thank you all very much. This is a worthwhile contribution.

Mr. McMann, you touched on the time delays. What do you think of the present law that requires that we specify two items or equal in our procurement policies? Are you familiar with that?

Mr. MCMANN. I am not directly associated with it. I, frankly, do believe in the "or equal" clause, obviously in competitive analysis of particular manufacturing products.

Senator CHAFEE. Mr. Wood, do you have some thoughts on that?

Mr. WOOD. I defer to Carl.

Mr. MAINE. I think we have some problems with the "or equal" clause. This has led to contracted bidding on equipment trying to prove something is equal. For example, we have industrial light switches and household light switches. For an engineer to review all of them saying this is a household light switch and does not qualify as an industrial light switch is a very difficult job to do. There is also the problem of maintaining some kind of a balance between the improper bidding on facilities, in other words, trying to get an equipment manufacturer who has it in with the engineer to get his equipment in there. When you take and say the engineer is going to have the responsibility in the warranty of the plant, I think he is going to want discretion. There are any number of pumps you can go buy and they look equal, but when they start performance they may not be 'or equal."

Senator CHAFEE. So what would you do?

Mr. MAINE. I would keep the "or equal" clause in there but allow certain qualifications of equipment. Now an engineer in designing equipment cannot specific every individual equipment performance test—hardware, things like this. You just can't do it for sewer treatment plants. I think you have to let the engineer have some latitude in specifying that kind of equipment.

Senator CHAFEE. Let's say the engineer specifies a BIF piece of equipment and manufacturer. Would you have satisfied or equal?

Mr. MAINE. Yes; definitely.

Senator CHAFEE. Presently, the law says you have to specify two pieces or equal. Do you see a difference?

Mr. MAINE. Yes, there is.

Senator CHAFEE. That makes it even more complicated.

Mr. MAINE. It makes it more complicated because in many cases there is only one piece of equipment that fulfills the job the engineer is specifying for. I think the "or equal" should be in there in that a manufacturer can come in and prove his equipment or equal. Otherwise it is up to the engineer to have to test every piece of equipment to prove it is or equal or not or equal. And I think the engineers are going to demand an elimination of that or equal clause if they are going to warranty the plant.

Senator **Chafee**. As I presently understand, the burden is now on the grantee, that is, the municipality, to prove that they are not equal.

Mr. **Maine**. That is right.

Senator **Chafee**. Suppose we change it around and therefore he is in all kinds of problems. Everybody comes in and bids and he is in a tug of war. Maybe we should make him specify one piece of equipment or equal with the burden of proof on the supplier that he is equal. How about that?

Mr. **Maine**. I would agree with that.

Senator Chafee. Whatever the system is now, from the testimony we have had, it is one of the contributing factors for everything taking so long.

Mr. **Maine**. That is right.

Senator **Chafee**. OK, fine, gentlemen, I appreciate your coming here today.

Why don't we go ahead with the next panel: Ms. Trudy Coxe, Ms. Elizabeth Head, Mr. Steve Olsen, Mr. Dennis Nixon, and Ms. Mary Snyder. Why don't you folks come down and we will get started.

We want to thank Senator Pell for being here. Let's give him a round of applause to show our appreciation. [Applause.]

We will go to 11:10 and take a break. Why don't we go as listed. Ms. Trudy Coxe from Save the Bay.

## STATEMENTS OF TRUDY COXE, EXECUTIVE DIRECTOR, SAVE THE BAY; ELIZABETH HEAD, NATURAL RESOURCES COORDINATOR, LEAGUE OF WOMEN VOTERS OF RHODE ISLAND; STEPHEN OLSEN, DIRECTOR, COASTAL RESOURCES CENTER, UNIVERSITY OF RHODE ISLAND; DENNIS NIXON, COUNSEL, RHODE ISLAND SHELLFISHERMEN'S ASSOCIATION; AND MARY SNYDER, MEMBER, CITIZENS' ADVISORY COMMITTEE FOR BOSTON HARBOR

Ms. **Coxe**. Senator Chafee, on behalf of the 10,000 families which support Save the Bay, thank you very much for the opportunity to speak today on the construction grants program.

My name, for the record, is Trudy Coxe. I am the executive director of Save the Bay, a nonprofit, tax-exempt citizens' environmental organization, considered to be the largest in the State of Rhode Island. Our membership ranges from major corporations to individuals who are boaters, shellfishermen, marine scientists, people from all walks of life who, like myself, love Narragansett Bay.

Senator **Chafee**. Trudy, you are never going to get through the statement.

Ms. **Coxe**. Yes; I am very fast.

Senator **Chafee**. You are fast. But I tell you, you have some important things to say so don't go so fast we can't absorb, but at the same time stay within the 5 minutes.

Ms. **Coxe**. We are very encouraged by many of the reforms you have proposed, Senator Chafee, but we are particularly encouraged that your bill pays special attention to bays and estuaries as worthy of national esteem.

There is nothing new, though, about recognizing the value of the Nation's bays. In 1969, in fact, then Gov. Ronald Reagan said about San Francisco Bay, "We cannot permit a lapse, no matter how short, in the protection of this priceless natural resource."

And, as you have said in your bill, our bays and estuaries are "environmental and economic resources to their States." Certainly this is accurate in terms of Narragansett Bay's importance to Rhode Island.

So in keeping with your subcommittee's theme of giving special protection to bays and estuaries, Save the Bay here today proposes that you, your committee, and Congress stipulate that Narragansett Bay be elevated to a stature of critical national concern in the 1981 amendments to the Clean Water Act. There is precedence for this. It is our view that Narrangansett Bay merits top priority in funding, research, and enforcement in order to solve its severe water pollution problems.

Our bay is indeed worthy of this distinction, and, for far too long, has taken a back seat to other bodies of water in our country. Narragansett Bay has the largest collection of marine plants and animals of any body of water in the world; it provides a quarter of the Nation's hard shell clams; it is the sailing capital of the world and is fast becoming a tourist and recreational mecca for the entire Northeast; it has, historically, been the foundation of economic development for our State; and it is what distinguishes our State from every other State in the country.

Senator CHAFEE. Trudy, you are a one-woman chamber of commerce

Ms. COXE. But let us consider what the impact of the last decade of the clean water program has had on Narragansett Bay. With a mere one-half of 1 percent, that is about $175 million out of the $29 billion spent nationwide; Rhode Island has made a very reasonable effort to clean up the State's waterways. Where the program has been applied, the program has worked.

In this regard, we strenuously object to the administration's implication that the construction grants program has been a boondoggle. While this is probably accurate in some States, we Rhode Islanders know one thing: We have not been "drowning in Federal dollars," as the administration has stated. We are indeed dying from drought conditions. To cut back the program because of the wasteful practices of others does not, to us, seem equitable.

Senator CHAFEE. Just in defense of the administration, I would say that language is GAO language. That is not the administration's language.

Ms. COXE. No; "we are drowning in Federal dollars" is from the language in the bill.

Senator CHAFEE. I stand corrected.

Ms. COXE. Inequitable funding has done its most harm on the one project that has had the most impact on Narragansett Bay—the Providence sewage plant.

So, in the seventies, the so-called decade of the environment, Rhode Islanders have seen tens of thousands of acres of rich shellfish beds closed off permanently to shellfish. We have seen studies show that our clams are contaminated with cancer, tumors, and ulcers. We have seen greaseballs, made up of oil and human waste, some the size of cannonballs, flushed from combined sewers to saturate our swimming areas. We have had to listen painfully to doctors attribute illness to bay pollution and to heed their advice that boaters stay off the bay in certain areas to take extra precautions in others. In addition, we have seen the already harmful levels of toxic materials in our shellfish and in bay sediments on the increase rather than on the decrease. If your associates in Washington, Senator Chafee, want to talk about waste, have them spend a day on the bay and see it firsthand.

Senator CHAFEE. All right, go ahead.

Ms. COXE. We expect that you can and will make a strong case in Washington for both the unique characteristics of Narragansett Bay as well as for its pollution problems. These points, coupled with the fact that Rhode Islanders have not sat idly back waiting for a rescuing hand from Washington, again, distinguishes our State. By passing an $87.7 million bond issue to fund repairs to the ailing Providence plant, Rhode Islanders stand as nationwide pacesetters.

We think that we should be rewarded and that this reward should be a national declaration that elevates Narragansett Bay to a position of receiving top Federal assistance.

Save the Bay agrees with the intent of both the Reagan administration and your subcommittee that the construction grants program needs restructuring—to curtail wasteful construction efforts, to tailor more efficient project development, and to emphasize water quality improvement first and foremost.

But we are deeply troubled, Senator, that in the attempt to develop a more practical approach, the Clean Water will be weakened.

We are troubled that just as various States have finally, again I am quoting from the administration's bill, "come full circle" and are now in a position to use clean water funds, as the administration's bill points out, Federal authorizations are being cut so dramatically. Save the Bay is not at all comfortable with this cutback, nor do we agree that the kinds of fiscal resources necessary to clean up our waterways are not available.

With your bill, Senator Chafee, Rhode Island would benefit modestly. That is good. But Save the Bay's point is much more broad. We see a scenario such as this: More than $1 billion gets cut from the program; deadlines for fishable-swimmable waters get extended from 1983 to the late eighties; local communities and States, impacted by other Federal cuts, get skittish about the costs of water pollution control. They have also seen the Federal Government retrench once, so they reason to themselves what is to prevent that from happening again. Then someone in Congress comes along and says let's reduce the standards, then most communities will be in compliance.

That is not so far-fetched. There is also a bill introduced which transfers pretreatment.

T[illegible] the original aim of the Clean Water Act is lost. We are convinced that the only way that the clean water program will work is with strong participation and clout from the highest offices.

We applaud you and the President for recognizing the need to set up an allocation formula that reflects real water quality and public health needs. How Rhode Island ever got stuck with a formula that prevented its reaching the goals of the Clean Water Act for 30 to 35 years is baffling.

We strongly support your proposal to give a bonus to a community using innovative and alternative sewage technologies. We are joining with national environmental groups in support of a 5-year program. We support your move to eliminate certain eligible categories, particularly those that do not have a direct impact on cleaner water. We do, however, support the funding of infiltration-inflow correction, when done cost effectively, and water conservation.

We support your fine recognition that combined sewer overflows represent a major pollution problem in the country. If any State can make this claim, certainly Rhode Island can, and we support any move which gives higher priority funding. We disagree with the administration's attempt to eliminate CSO, but we also question whether your attempt of providing $200 million will be sufficient for the Nation or even for Rhode Island, especially in light of the estimated price tag attached to nationwide CSO correction.

Save the Bay supports the Chafee provision which eliminates reserve capacity and agrees that the role of the engineering firms that plan, design, and construct sewage systems be extended to their guaranteeing their work.

In conclusion, Save the Bay calls upon Congress to demonstrate its highest commitment to clean water; to recognize that solving our water pollution problems now is the most cost effective way to proceed; and to remember that the American public strongly favors the curbing of water pollution.

I have attached the latest Harris poll to the testimony showing that 93 to 94 percent of the American public is opposed to easing up on environmental rules. You will note that 52 percent of the public wants our law made stricter; 41 percent favor them staying the way they are; and only 4 percent favor making the act weaker. In other words, Senator, you have a lot of help and support across the Nation.

Thank you.

Senator **Chafee**. Thank you very much, Ms. Coxe.

Next is Ms. Elizabeth Head of the Rhode Island League of Women Voters.

## STATEMENT OF ELIZABETH HEAD

Ms. **Head**. Thank you. I am Liz Head, a former president of the League of Women Voters of Rhode Island.

The League of Women Voters of Rhode Island is firmly committed to a national goal of cleaning up our polluted waters and restoring their biologic integrity to achieve the best possible overall water quality. To this end, the league supports a water quality construction grants program that: Considers the construction grants program an environmental program, not a public works program; determines the funding by water quality benefits; has clear goals and the flexibility to achieve those goals; recognizes the uniqueness of every receptor of wastewater; recognizes the special needs of localities with complex water quality problems and declining tax resources; and contains a full and complete public participation program.

We would like to comment specifically on both the Reagan administration's proposals and your amendments.

The first proposal from the administration is "to change the funding formula to require a larger State share." The LWV/RI suggests that several factors need to be considered, including the availability of tax resources and the goals of the program. If we assume that larger, older cities have the severest and most complex water quality problems, and the greatest difficulty in meeting standards, then we must take into account the fact that these cities are also most likely to be faced with a declining tax base, and therefore would be unable to meet the larger local share. That is, of course, provided there is not an additional State share involved. Perhaps the most efficient use of the Federal share would be to rebuild existing sewerage systems, and the least efficient use is the hookup of failing individual septic systems.

On the point of limiting funding to secondary, advanced secondary, interceptor source, and to meet only backlog needs, we agree that backlog needs should be met, but disagree strongly with the funding limitations.

These assume a certain methodology is proper for treating all water quality problems, and profoundly limits flexibility in solving them.

Here in Providence the pretreatment of industrial wastes and building combined sewer overflow treatment facilities are vital to solving water quality problems in upper Narragansett Bay. Without these two problems the job cannot be done. Obviously we support Senator Chafee's amendment to include $200 million each fiscal year to specifically address water qualtity problems in bays and estuaries due to the impact of discharges from combined storm and sanitary overflows. The estuaries and bays are nurseries for our fish population and we must insure their future productivity.

Another point to consider is that not all water quality problems require secondary treatment at all times. The importance of secondary treatment varies with the season and the climate. Cold water contains more dissolved oxygen and is able to handle greater loads of BOD. The league supports a thorough examination of seasonal treatment, and a case-by-case determination of the appropriateness of various technologies such as land treatment, and the unique needs of the receiving waters—high levels of productivity, et cetera.

The league does not support the elimination of Federal liability for future reimbursement of projects constructed without Federal funds. If the project has met the goals of the program, and was not meeting future growth needs, no locality or State should be penalized simply for moving ahead.

The requirement in section 9 that projects included on a State's priority list result in significant water quality benefit—particularly in areas of large industrial concentration—should be made, as long as flexibility for solving water quality problems remains in the act.

For instance, in Providence, the CSO's may yield the measurable differences, that is, a reduction in upper bay shellfishing closures. However, the sewage treatment plant must still be upgraded to protect public health. Failure to do so would worsen upper bay water quality and would not assure basic treatment, including protection of public health, and even removal of large objects from the upper bay.

We had a question in section 9 about the impact of the deadline. We are concerned particularly with rumors that no more industries will be required to pretreat, including the jewelry industry.

Senator **Chafee**. I don't know where that came from.

Ms. **Head**. We keep hearing that there is——

Senator **Chafee**. I think pretreatment is essential to the success of this program.

Ms. **Head**. We certainly do, too.

Senator **Chafee**. If you don't have pretreatment, the ability of the sewage treatment plant itself has to be raised to such a level it will be incredibly expensive. So I don't know where that came from.

Ms. **Head**. At least we are getting the rumors that the pretreatment program is in danger.

Senator **Chafee**. It may be in danger locally in that no one seems to be able to agree on a site. That is a local problem; that is not a Federal program. The Federal program is we are going to require pretreatment.

Ms. **Coxe**. Senator, Liz is absolutely accurate. Our office and the shellfishermen have received information from Federal and State officials who claim the pretreatment program is going to be eliminated from the renewal of the Clean Water Act. If it is not, it is good to hear that from you.

Senator **Chafee**. It is the Congress that decides. I know this task force of Vice President Bush's on easing regulations has been discussing that. But it is something that has been discussed I guess, but I don't think it is to the point of being worthy of a serious rumor that the program is going to be done away with.

Ms. **Head**. We are expressing our deep concern about that because it is very important.

Senator **Chafee**. You have 1 more minute. I don't want to be harsh on these time limits, but we have a lot of witnesses. What often happens in these hearings is that the unfortunate soul that is in the last panel gets no time at all because the ones in the early part have exceeded the allotted time. So why don't you go ahead.

Ms. **Head**. The league would agree to allowing the Governor discretion in setting aside funds for rural communities and innovative treatment alternatives, as long as they were applied to existing water quality problems. However, large urban areas may also need special attention and these cities may require similar set-asides. In the short term this may be the only way to address the problems of Eastern cities.

In addition to allowing discretion in removal of the set-aside funds, perhaps Governors should also be allowed to increase set-asides up to a certain percentage. Any decision the Governor makes should have a long enough time frame to make planning a rational process.

We support the limitation of funding to building for existing needs, and excluding Federal funding for reserve capacity and future growth.

This is an attempt to place the costs of development where they belong—on the developer or the developing community. For the Federal Government to be financing growth in one section of the country at the expense of other sections seems—seems at least to us in the Northeast—imprudent and a waste of existing resources—most particularly the infrastructure.

These developing localities should still be required to meet standards and deadlines whether or not Federal funds are available. Otherwise localities are encouraged to allow growth they are unable to handle in the expectation that Federal funds will again become available.

Several comments are in order on Senator Chafee's amendments:

To limit administrative approval to the finished plan and design only.

We do support streamlining of the approval process, but we want to be assured that EPA will have the funds and the resources to continue to monitor all steps of the construction grants process. EPA should not be restricted in its monitoring efforts, whether it be through the States or through the regional offices. They should have a thorough grasp of the problems, needs, and water quality goals of the locality and region before receiving any plan. Otherwise, a decision might necessarily be delayed an inordinate length of time.

In our experience, regulation and guideline changes, as well as lack of local cooperation in obtaining responses to needs surveys, have been the real culprits in delaying the planning process.

Elimination of Federal funding for planning unless the construction grant is approved. To us, this seems reasonable at least on the surface. Communities should be willing to invest their own moneys in the planning process. However, we do wonder what the impact will be on regional planning. Will communities be willing to accept their responsibility for cleaning up a river basin or an estuary? For instance, the Providence sewage treatment plant is just one—albeit a large one—of many contributors to the pollution of Upper Narragansett Bay. We must continue to fund research and planning as well as the construction grants in order to solve the cumulative water pollution waters and achieve the best possible water quality.

Senator **Chafee**. OK, fine, thank, you very much, Ms. Head.

Ms. **Head**. Thank you.

Senator **Chafee**. Mr. Olsen from URI.

## STATEMENT OF STEPHEN OLSEN

Mr. **Olsen**. My name is Stephen Olsen. I am the director of the Coastal Resources Center at the URI Graduate School of Oceanography and chairman of the recently formed URI advisory group to the Narragansett Bay Water Quality District Commission. The advisory group will be attempting to assist the commission in identifying the likely effects on the Upper Narragansett Bay ecosystem of various modifications to the Providence sewer system. This morning I would like to comment on three topics that are relevant to the proposed amendments to the Clean Water Act. These are (1) the critical importance of the effluents from combined sewer overflows to the present pollution of the bay; (2) the enormous impact on the bay ecosystem of municipal sewerage and urban runoff that enters the Providence River; and (3) the need for taking a holistic view of the pollution problem and setting priorities for improvements to the sewer system in terms of expected improvement in the quality of bay waters.

Mr. Don Robadue at the Coastal Center is presently completing a review of available estimates of the annual inputs in terms of BOD's and total suspended solids to the Providence River from the three municipal sewage treatment plants and the combined sewer overflows. Until very recently there was no data on the pollution flowing into the river from the CSO's. In 1977, it was estimated that CSO's contribute some 10 percent of the total BOD and total suspended solids loadings to the river. In 1979, the Anderson-Nichols plan for the Providence sewer system increased the estimate for BOD, after some sampling, by a factor of four. In February of this year, the firm Castellucci & Galli measured the flow in a single CSO No. 002, which is adjacent to the Fields Point treatment plant. If one is to extrapolate from their data a conservative estimate of the annual loading from this one CSO, it is equivalent to half of the total loading from all three sewage treatment plants in 1980. CSO No. 002 is known to be the worst of all of the CSO's. There are, however, a total of 65 CSO's that discharge into the river from Providence and an additional 30 or more elsewhere along the river. Several of these are known to produce a dry weather flow to the river. The flow from No. 002, if we are to accept the present preliminary estimate—and I would like to underscore these are preliminary—is about equal to the expected reduction in both BOD and total suspended solid loading from the Providence treatment plant if that facility is to be completely rebuilt. If this and other CSO's in the area worked as designed, there would not be any dry weather flow from the CSO's to the river.

I would like to say that I think the idea of putting aside some funding for the CSO's is obviously a very good one. I only hope that there will be enough money and that it will come down to Rhode Island.

Much has been said about the overriding importance of a clean and healthy Narragansett Bay to the State of Rhode Island and the pervasive ill effects of the pollution that flows into the Providence River. In 1979, the Coastal Center undertook for the EPA a review of all available information on the pollution of upper Narragansett Bay. We found that the upper bay is the major source of all pollutants in the bay. Gradients may be seen from the Providence River to the bay's mouth for bacteria, organics, nutrients, most metals, and petroleum hydrocarbons. There gradients are present in both the water column and in the sediments. The impacts of this pollution are enormous. The bay's most productive quahog grounds are off limits to the State's growing numbers of shellfishermen. Because the bottom sediments are so heavily polluted it has not been possible to find a disposal site for upper bay dredge spoils. As a result dredging has been at a virtual standstill for a decade, and this has had a severe adverse impact on the growth of the shipping in Providence Harbor. The upper bay's water are malodorous and unfit for fishing or swimming.

Senator CHAFEE. Mr. Olsen, you have 1 minute left.

Mr. OLSEN. I will hasten to my last point, which is to say that I heartily endorse the proposal to evaluate proposed projects relating to sewage treatment in terms of the expected benefits that will accrue to the quality of the receiving waters. I find that it is amazing that no real effort of this kind has as yet been attempted for the Providence River despite the millions that have already been spent for planning and designing new treatment facilities. Intelligent, cost effective regulation of pollutants and the funding of pollution abatement projects must, in my view, be grounded on an appreciation of the total system that is being impacted.

Senator **Chafee**. Thank you very much. What I will do is ask some questions of the panel when each one completes his or her statement.

Next is Mr. Nixon.

## STATEMENT OF DENNIS NIXON

Mr. **Nixon**. Thank you, Senator. It is a pleasure to come here and comment on S. 1274, the Clean Water Act Amendments of 1981.

Senator **Chafee**. I might say I am very sympathetic. I have a son who is a quahogger who is out on the bay now.

Mr. **Nixon**. Is he a member of our association? I would be happy to give you an application form.

Senator **Chafee**. I will present it to him and encourage him.

Mr. **Nixon**. Thank you very much.

Senator **Chafee**. But he was a very enthusiastic supporter of the bond issue, as were all the quahoggers.

Mr. **Nixon**. As a matter of fact, we spent almost our entire budget to promote it.

Senator **Chafee**. I will see he joins the organization. What are the dues?

Mr. **Nixon**. $25 a year.

Senator **Chafee**. Well, I will encourage him.

Mr. **Nixon**. As you know, that is hardly a morning's work out in the bay, the way we have managed to restore the State's shellfishing industry, and we have a healthy industry and would like to keep it that way.

I can't speak as quickly as Trudy can, so I only have three pages of testimony here.

I would like to point out I am an attorney. I am not a shellfisherman. I am not strong enough to do that on a day-to-day basis, and perhaps not smart enough as well.

The members of our association depend upon clean water to practice their livelihood and recognize the leading role Congress must take in setting firm priorities and assisting States to reach these goals.

We have supported the Clean Water Act in the past, and especially the construction grants program, because it has made an impact on the quality of water in Narragansett Bay. New plants ringing the perimeter of the bay have eliminated many discharges of raw waste. Local comumnities do not, in most cases, have the ability to raise the funds to plan and build a sewage treatment system and need Federal assistance for this type of undertaking. Without that assistance, we fear that many communities would be unable to act and never would be in compliance with reasonable uniform standards. Thus although there may be examples of abuse in this program in other parts of the country, we are generally pleased with the results the program has achieved in Rhode Island and Narragansett Bay.

Section 7 of this bill has particular importance for the people of Rhode Island and the shellfishermen of Narragansett Bay. Section 7 is the section involving CSO's and a set-aside for the administrator.

There is no more vivid an example of a combined sewer overflow problem than the city of Providence sewage treatment system. A recent series of improvements to the sewage plant itself enables the plant to often achieve secondary treatment standards on the sewage which actually reaches the plant in dry weather.

However, there are two major flaws to the system as presently designed which cause raw sewage discharges, high bacteria counts, and the forced closure of the richest shellfishing grounds in Narragansett Bay. First, even in dry weather it allows sewage to escape from malfunctioning combined sewer overflows directly into rivers and the bay; infiltration of salt water at high tide into those same sewer overflows vastly complicates the biological process of treating the sewage which reaches the plant. Second, a light to moderate rainfall has the effect of completely flushing the system, in the fullest sense of that word, so that there is a virtually unimpeded flow of sewage and rainwater into the bay until the rain subsides.

The first flaw, involving dry weather discharges, has forced the closure of 5,600 acres of Upper Narragansett Bay to shellfishing on a permanent basis. The second problem of storm and sanitary sewers overflowing because of rainfall causes the temporary closure of 9,400 acres of Narragansett Bay to shellfishing. Unfortunately, the outfalls are directly affecting the most highly productive areas of the ecosystem. Our fishing industry could produce a significantly higher annual yield if even the temporary grounds could be reopened on a permanent basis.

I haven't included any dollar figures in my written statement because the dollar figures go all over the ballpark, but perhaps as much as a 65-percent, or $8 million, excess could be seen in the eighties if we were able to open that temporarily closed area. With a multiplier effect of 2.76, this would mean an increase in the State's economy of roughly $22 to $28 million. So we are talking about a lot of money that could be made if we were able to see a real improvement in the water quality in just one area.

For that reason, we strongly support the inclusion of section 7 of these amendments. At this point, we are fighting the double-edged sword of an antiquated sewage treatment plant and a sewage delivery system which releases as much as half of the total volume of raw sewage directly into the rivers and bay. We desperately need the funding to eliminate this serious problem.

The people of Rhode Island demonstrated their initiative and concern for the bay last year when the passed by referendum an $87 million bond issue for repairs to the Providence sewage treatment system. We will be paying the lion's share of the cost of repairing and renovating the sewage plant. We cannot, however, complete this program and eliminate the combined problem without Federal assistance.

If this bill is passed, we are confident that we have firm evidence to establish the "demonstration of water quality benefits" to the Administrator of the Environmental Protection Agency. Without additional funding, we may never to able to restore Upper Narragansett Bay to its clean, naturally productive state.

Thank you for this opportunity to explain the position of Rhode Island's shellfishing industry on this important issue.

Senator **Chafee**. What do you mean by you will be paying the lion's share of the cost of repairing and renovating the plant?

Mr. **Nixon**. Well, the $87 million up front money was passed without the assurance of the reimbursement.

Senator **Chafee**. I see.

Mayor DiPrete is here. We still have to hear from Ms. Snyder. Maybe, Mr. Nixon, you could let the mayor have a seat at the table. Ms. Snyder, do you have a time problem?

Ms. **Snyder**. No trouble.

Senator **Chafee**. The mayor does have a problem. Let's take him; then we will come back to the panel.

Mayor, we are delighted you are here. I know you have a time problem. Why don't you slip right in there, Mayor DiPrete, of Cranston, R.I.

## STATEMENT OF HON. EDWARD D. DiPRETE, MAYOR, CRANSTON, R.I.

Mayor **DiPrete**. Thank you, Senator. I don't speak as fast as Trudy either, but I have a very short statement.

Senator Chafee, ladies and gentlemen, before I make my remarks, I want to thank Senator Chafee for arranging to hold this hearing here in Rhode Island. A State that has such splendid water resources as we do has a strong interest in the preservation of a positive Federal presence in the effort to provide clean water nationally.

This morning it is not my intent to offer you an analysis of the existing act or of the proposals to amend it. The sort of technical discussion is best left to those who are more intimate with the act's workings and implications than I. Rather, I want to inform you of the importance of such Federal legislation to one community—my own—and urge you to return to Washington to implore your colleagues to continue this valuable program.

Now, of course, I know as you do, that the programs funded under this act are less than perfect and you as Members of the Congress have an obligation to examine them closely and to offer recommendations as to how they can be made more efficient. I want to congratulate Senator Chafee in this regard. His package of amendments is, I believe, an effective response to the need to reform the Clean Water Act. These amendments recognize the act's importance to the overall job of cleaning up our waterways, yet understands the Nation's need to target Federal spending to those areas where it is most needed and most appropriate. I support these amendments, Senator, and urge the Senate to do so.

One of the reasons why I so strongly support reform of the Clean Water Act is my own experience in Cranston where we have underway a major expansion and modernization of our wastewater trreatment plant funded by the Environmental Protection Agency, the State, and the city. This project carries a price tag in excess of $40 million and is the largest public works project—as a matter of fact I believe the largest project—ever undertaken in the City of Cranston. I believe it is crucial to the future economic and environmental health of our city.

Such a major project could not have been undertaken realistically without a significant part being played by the Federal Government. Raising more than $40 million in capital funds through bonding would leave Cranston taxpayers with a crushing burden and seriously inhibit our ability to carry out other capital projects. Federal and State participation in financing this project have made it possible.

At the same time, a local commitment is essential to carry forward clean water projects. I am happy to say that we in Cranston have had that commitment for nearly 50 years. From its beginnings in the 1930's to the present, our water pollution treatment facility has been operated efficiently. In fact, Cranston's sewerage treatment plant is considered one of the best in the East and best in New England. I mention this to underscore my point that clean water happens because of a true partnership among the various levels of government, with each holding up its appropriate end.

I could not end my comments without directing your attention to some of the practical implications of the Chafee amendments outside of the very practical financial considerations. Specifically, I mean the provisions that seek to reduce the redtape in the application process. I have been told by the superintendent of our treatment facility that the city was ready to begin this project 8 years ago, but was unable to do so because of Federal delays. Let me underscore that I confirmed that with Carleton, Maine a few minutes ago; 8 years ago, and that is absolutely true.

Senator CHAFEE. It has probably doubled in cost since then.

Mayor DIPRETE. I would say that is a reasonable statement. And we haven't had the services of it.

I know that when I became mayor some 3 years ago, I made it a major concern of mine to get this project into the construction stage. While my office has a good working relationship with the Environmental Protection Agency regional office, the entire process can only benefit from a congressionally mandated order to simplify and speed up the application procedures.

I also want to bring to your attention the section of the amendment that clarifies the liability of consulting engineers. By requiring that engineers take responsibility for the operations of plants they design for 2 years after those operations start, the law will place responsibility just where it belongs. An arbitration procedure for resolving disputes is also welcome since it will avoid costly, time-consuming civil court suits.

In conclusion, let me repeat my support for these amendments because they represent a reasonable approach to preserving a valuable and essential Federal funding tool. Even in these days of belt tightening and fund reductions, some programs deserve to be continued, and this certainly is one of them.

Senator CHAFEE. Well, thank you very much, Mayor, for your comments. Of course, you are right there on the firing line, where the action is, and the comments you made about the length of time is really the reason we are here today. I appreciate it a great deal your taking the trouble to be here.

Mayor DIPRETE. Thank you very much for letting me speak.

Senator CHAFEE. Now let me just outline what we are going to do here. Ms. Snyder will come next, then we will take Mr. Jankel, who has been waiting, and I thought he was on a panel with Mayor Cianci, but the mayor apparently can't be here. So then let's take Mr. Jankel alone after this panel. Then we will have a break. Then we will go with the last two panels.

Now, Ms. Snyder, we are delighted you are here.

## STATEMENT OF MARY SNYDER

Ms. SNYDER. Thank you. It is a pleasure. I am Mary Snyder and I represent the Boston Harbor Citizens' Advisory Committee. We have been working with the EPA and State environmental agency of Massachusetts since 1976. It is nice this morning to be in such a distinguished city as Providence and Narragansett Bay which have a lot in common with my State.

The Boston Harbor Citizens' Advisory Committee is here this morning to support provisions of Senator Chafee's bill, especially section 7, which would provide set-aside funds to address problems caused by combined storm water and sanitary sewer overflows.

Boston is one of the oldest urban centers in the United States. It is the major economic and cultural center for the New England region. It is working hard to maintain and to improve its infrastructure. Boston Harbor is a major recreational resource for its urban population and an important shellfishing area. There are many islands in the harbor and many public beaches in the harbor communities as well as on the islands. Long-time residents, who used to swim here, have watched these beaches be polluted and degraded. This pollution is caused as much by the failure of the combined sewer system as by the inadequacy of the sewage treatment plant. The CSO projects now in design will allow the restoration of the beaches and the shellfisheries. We need these resources more than ever as transportation costs for food and recreation escalate.

People swimming in Boston are at risk. We must try and balance the short-term benefits of summer recreation against the long-term public health risk. The solution is the dramatic improvement to Boston's combined sewer system which will eliminate the discharged sewage and other waste into the harbor. It is the funds which are now at risk.

The Boston Harbor Advisory Committee has sent me here to say the CSO projects clearly benefit public health and water quality and foster more effective operation of an existing system rather than promote growth.

We believe that section 2 of the bill will aid in accelerating the process of getting priority projects into construction. We have seen the institutional problems in the existing process and appreciate this attempt to allow State and local governments more flexibility in determining methodologies and timetables.

We support also the expansion of the definition of secondary treatment to allow States to determine the most appropriate technologies for dealing with their specific problems and to consider the costs of operation and maintenance of the treatment plants over time.

Since our primary responsibility is to Boston Harbor, we have been concerned about the problems for the existing and updated treatment plants if growth and extension of the systems is encouraged by unrestricted Federal planning grants. Section 9 of Senator Chafee's bill will help communities to accept responsibility for the regional impacts of their developments. We would hope that this provision might also encourage more interest in removing pollutants at the source.

We are pleased to see the value of innovative and alternative technologies acknowledged also.

We recognize the fiscal constraints under which Federal, State, and local governments are operating. As an older urban center, we feel that our priority projects which serve to maintain an important regional resource should receive significant and prompt Federal funding. In this way, projects now designed can move into construction and completion under this administration.

Thank you very much.

Senator CHAFEE. Thank you very much, Ms. Snyder. We appreciate your coming down to be with us this morning.

I would like to ask the panel a couple of questions. I will ask this of Ms. Coxe. What about a nonstructural alternative for control of CSO, some steps to slow down the flow of the overflow waters into the sewage system? For instance, aren't downtown spouts just connected directly into the sewage system which gives it tremendous impetus and push, whereas if there were a 5-minute delay by having the down spouts flow into the streets and then into the sewage system there wouldn't be as great a burden. What do you think about that?

Ms. COXE. I can remember the former director of public works for the city of Providence make a big pitch to the Federal Government that better street sweeping would be a way of reducing the amount going into the combined sewer overflows and backing up. That was something Save the Bay strongly endorsed on behalf of this claim. I am not sure that should be something federally funded. I think there should be some incentive that requires communities to look into nonstructural solutions, whether or not that should be funded by the Federal Government.

Senator CHAFEE. Well, I can assure you it wouldn't be funded by the Federal Government.

Ms. COXE. I think there needs to be some sort of incentive from EPA or Congress that pushes communities in the direction they take good housekeeping measures into effect and put them into place.

Senator CHAFEE. It seems to me that the sewers in the city of Providence are used as dumping grounds. Everything in the streets is just shoved down there and that must have considerable ramifications. Either it backs up into the streets or it must affect it in a very substantial manner.

Ms. COXE. Yes.

Senator CHAFEE. I was going to touch on the training of personnel, but I think that is not a question for your group here.

Mr. Olsen, let me ask you a question. Several of the witnesses have suggested that we don't go to secondary treatment, that there be rather an option left because secondary treatment in some instances is just going too far. What are your thoughts on that?

Mr. OLSEN. I would not really know how to answer that at this point. What I can say and would say very strongly is that I think that we must try to look at the whole system, try to understand what all the inputs are, where one might get the biggest bang for the buck, and the only way to do that is if you really know what you are dealing with as a whole, what all the inputs are and what their impacts are in general terms at least. And we simply don't know that at this stage, and it is therefore extremely hard to say anything very helpful on any of the specifics.

Senator CHAFEE. Well, I thought the point you made about certain of the CSO's as being the primary offenders was a pretty good one.

Fine, thank you all for coming here. We appreciate it.

Why don't we take Mr. Jankel and then we will have a break. I will place Mayor Cianci's statement in the record, and a statement from Congresswoman Schneider, who unfortunately couldn't be here. (See pp. 96, 100.)

## STATEMENT OF ERIC JANKEL, EXECUTIVE DIRECTOR, NARRAGANSETT BAY WATER QUALITY MANAGEMENT DISTRICT COMMISSION, ACCOMPANIED BY FRANK WHITAMORE, VICE CHAIRMAN

Senator CHAFEE. Mr. Jankel, you may proceed.

Mr. JANKEL. Thank you. With me is Mr. Frank Whitamore, who is vice chairman of the Narragansett Bay Commission.

I have a prepared statement and I will endeavor to go through it as quickly as possible and touch on the highlights.

It is a pleasure to appear before your subcommittee here today. As you know, I am here on behalf of the Narragansett Bay Commission. The chairman has asked me to specifically thank you for holding this hearing in Rhode Island. As the commission prepares to assume the management of the Providence-owned metropolitan sewer system nothing is more critical than the continuation of a federally funded construction grants program. I think that all Rhode Islanders who value Narragansett Bay and recognize the extent to which this glorious natural resource has been degraded and polluted by the Providence sewer system appreciate the fact that you, personally, as chairman of the subcommittee, have responded to President Reagan's call for reform to this program. Appropriations in fiscal year 1982 are vital to the commission's plans. By holding these hearings now and by moving amendments to the floor of Congress this year we hope you are able to preserve continuity in this important program.

As you know, the commission was created as a result of years of litigation against the city of Providence because of unnecessary pollution of the bay, and after Governor Garrahy's sewage task force studied and analyzed all of the complex financial and technical aspects of the operation of the metropolitan sewer system. The task force concluded three things: (1) The Providence sewer system was the primary source of pollution to Narragansett Bay; (2) The city of Providence, with its declining population, shrinking tax base and fiscal difficulties, could not generate enough money to finance its share of the necessary improvements to the systems; (3) the lack of consistent and sound management practices have led to an unprecedented state of disrepair.

Nothing has changed, Senator, to alter any of these conclusions. The wonderful rivers which weave their way through the neighborhoods of the capital city are at this moment open sewers due to tide gates which do not function because they have not been maintained. Twice a day, with each high tide, millions of gallons of salt water flow into the sewer system which disrupts the biological treatment process at the Fields Point plant. Every hour of every day, shellfish are exposed to toxic metals and other pollutants, reducing their value as a natural resource and economically restricting a vital home industry.

I have brought some photographs which Frank has here which graphically illustrate the state of disrepair. And I have a set of those for your use, Senator.

Very quickly, Senator, basic kinds of things. This is supposed to be a flow meter between the town of Johnston and city of Providence. It is absolutely broken. It is in total state of disrepair. Those are just general shots of the system. Here you can see some of the tide gates. In one case the tide gate has been sandbagged close. In another case the tide gate has totally fallen. I asked the city workers when this asphalt was deposited here. They said, oh, 10 or 12 years ago. Other tide gates will not open and close and salt water flows into the system disrupting the biological process. Here are some other pictures of tide gates that simply cannot function.

Senator CHAFEE. Do you think salt water is coming into the system and thus you are treating salt water?

Mr. JANKEL. That is correct.

Senator CHAFEE. And thus that may be a contributing factor to our overflow, wouldn't it?

Mr. JANKEL. The overflow, Senator, in your opening remarks you mentioned them. Let me try to show what a typical overflow in this system looks like.

As you know, in many neighborhoods when the system was designed storm sewers run into the same collector pipes as the sanitary sewage. When it rains the runoff comes down the system. There is a slot here, and in dry weather when there isn't a high clogging all the waste would go into an interceptor and be carried to Fields Point. The tide gate would restrict the high tide flow from entering the system. If this gate isn't locked at high tide, the salt water comes into the system, down the slot and goes to Fields Point, and the salt water causes the biological material to float in the tanks and therefore you have inefficient treatment.

Senator CHAFEE. What does it do to the bacteria? It must kill it.

Mr. JANKEL. I am not a biologist, Senator, but I have seen at the plant the phenomenon of rising bacteria. Obviously the efficiency is greatly reduced.

Senator CHAFEE. How many of these salt water gates are there?

Mr. JANKEL. There are 65 overflow points in the system and they are all over the city. They are not at the Fields Point plant itself. Many of these are on the Woonasquatucket River, inside the State house.

Just one other thing. If the tide gate is not working, as you have a dry weather flow, which is too much for the slot to handle, or it is clogged, this dry weather flow carrying domestic sewage and other components bypasses the interceptors and goes into the Providence River or Woonasquatucket River. This is happening today, 365 days a year.

Senator CHAFEE. It seems to me it would be quite important to repair those gates quickly. If you repaired the gates, you might not have to make the mammoth changes for increased capacity for the sewage treatment plant.

Mr. JANKEL. That is true, and that is obviously the first step. The designs that have been prepared under the EPA step II contract for the Fields Point plant assume, Senator, that this problem will be corrected. So you cannot have the efficiency of treatment at Fields Point with an expanded plant unless these systems are corrected.

I have a set of these photographs for your use, Senator.

Senator CHAFEE. Thank you.

Mr. JANKEL. Subsequent to the task force recommendations, the Governor submitted legislation and the general assembly enacted a bill creating the Narragansett Bay Commission. This law mandates that the commission take over operation and management of this vital public service from the city. The bill called for an unprecedented bond referendum in the amount of $87.7 million. The people of Rhode Island approved the bond issue on November 4, 1980, and the commission is now negotiating with the city of Providence for transfer of facilities and operations. We hope to have an agreement with the mayor in early July so that we can close on the transaction November 6, 1981, within 1 year of the mandate of the people of Rhode Island.

Today, I would like to focus specifically on one provision of the amendments—combined sewer overflows—and I would like to seek a clarification on one other provision, the cutoff date for step II approval.

I would like to stress the importance of mitigating the CSO source of pollution. As you know, the Providence system, built at the turn of the century in a hilly terrain with its lowest areas in a tidal zone, is like many other mature, coastal American cities. The sanitary or domestic sewage is combined in the same pipes with storm water runoff. When it rains, as it does about 125 times a year here, the system is designed to discharge the overflow into one of our rivers. In 1874, when this system was designed, it was an engineering marvel. But that was before detergents, garbage disposals, massive parking lots, crankcase oil and toxic metals were commonplace.

It seems to me that it is fair for Congress to ask if mitigation of CSO pollution presents a national need. Let me attempt to address this point. The people of Seattle, San Francisco, Boston, and Providence share a common bond. They all live on bays or estuaries, and their sewer systems all have overflows into these waters. Further, it is clear that Puget Sound, San Francisco Bay, Massachusetts Bay, and Narragansett Bay are national resources and areas of special biological significance. These bodies of water link our inland rivers to the oceans and thereby provide an area for the mixing of salt and fresh water. This mixing phenomena combined with mild water temperature and shallow shoals provides a special climate for breeding and a unique area for many species of marine life to exist. It is a delicate and sensitive zone.

We can see in our Narragansett Bay the effects of 100 years of industrial activity. Native species finfish and shellfish, once abundant, are now gone or diminished. Levels of production in our shellfish industry are declining. In 1975, the bay was closed to shellfishing 55 percent of the time; in 1978, 74 percent of the time. More and more of the bay is subject to closure.

Determination of the national need, Senator, is not a simple addition of local needs. Special areas, such as Tongass in Alaska, Yosemite in California, and the Everglades in Florida, receive special attention from our Federal Government because they are gifts of nature, inherited one generation from the next, timeless statements as to the wonder and beauty of life. So, too, are the bays and estuaries of our continent. Though they are submerged and therefore invisible to our eye, they should not be abused and discarded as marine landfills, particularly when the technology and capability exist to reduce the levels of pollution they receive. We can, and will, clean up Narragansett Bay and the Providence River and its tributaries. However, the Federal Government should, and must, be a partner in this effort.

Consider for a moment how much pollution the Providence CSO contributes to the bay.

In 1977, Anderson Nichols reported that the CSO system in Providence, when measured for BOD load and total suspended solids, was among the worst in the Nation. More recent analyses are even more discouraging.

Mr. Olsen talked about CSO 002. But CSO 045 on the Woonasquatucket River, within site of the State house, could discharge up to 372 million gallons of flow a day from 1,136 acres of drainage area. Wastes from homes, schools, hospitals, light and heavy industry, and restaurants stream into the river when it rains. The waste is then transported by tide and river flow through the central business district of Providence and into the bay.

The commission intends to explore and employ every available technique to reduce, minimize, and eliminate this source or pollution: repair tide gates and slots, street cleaning, in-line storage, off-line storage, selective separation of storm and sanitary sewers, treatment where possible.

Senator CHAFEE. What is inline storage and off-line storage? You mean of the waters?

Mr. JANKEL. That is right. The inline storage technique is basically an inflatable dam or some other structure in the pipe so when it rains you can store this in the system. Off-line storage would be some type of facility where you would collect the storm waters or hold it until it can be treated or released into the system in dry weather.

As you know, Senator the upper reaches of the bay are especially sensitive. Your amendment recognizes the special nature of these areas. The commission would like to fully support it, but we have the following questions: Will a $200 million authorization mean a $200 million annual appropriation? If the national need for CSO is $37 billion, can Rhode Island expect to get a fair deal from EPA in a discretionary program? Finally, will Mr. Stockman and Ms. Gorsuch promulgate the necessary rules and regulations and make the program available? When will we see the first available funds?

It is ironic that the Reagan administration says that a reformed construction grants program will benefit older urban areas and then they propose to delete from eligibility a critical component of the urban need.

Senator CHAFEE. I think their rationale for helping urban areas is eliminating the growth from the eligibility criteria.

Mr. JANKEL. And I think that will help, Senator.

In 1979, CSO needs for the district were estimated at $155 million. It may actually be more or it may be less, but I would ask that you consider restoring CSO as a 201 eligible or give the State some discretion to use its allocation for CSO work if the water quality benefits that your amendments attach to State priority setting can be established. Alternatively, you might want to give States with CSO problems a special allocation above the State formula for a specific period of time, say 10 years.

One point that I would like to clarify with you or your staff today is the cutoff point. It is clear that the step II design for the Fields Point plant will not be completed and approved by EPA on December 31, 1981. Will this portion of the project then be subject to the lower levels of funding or can the date in the amendments be changed to March 31, 1982, in which case we will have a fighting change for a 75 percent Federal share?

Senator **Chafee**. Well, let's get Mr. Corcoran to answer that right now.

Mr. **Jankel**. I have ready conflicting reports as to what the significance of that cutoff date is.

Senator **Chafee**. While he is getting that, why don't you finish up.

Mr. **Jankel**. The commission would like to make some additional comments on other aspects of the Reagan and Chafee amendments, and if the hearing record is going to be open for a few more days we will delivery a letter to you staff later this week.

Chairman Turco wanted me to stress today both the significance of the CSO problem and the importance that Federal funds for CSO will play in improving water quality in Narragansett Bay.

In closing, let me say that your staff has been most helpful in working with the commission, and the commission would like to make our resources available to you when you mark up a bill and when you go to the floor of the Congress later this year.

Senator **Chafee**. Thank you, Mr. Jankel. Let me say I am obviously extremely interested in the commission and what you are doing, and I wish you well. It is an arduous job, and I know you have had some rocky points in getting off to a good start, but things seem to be going well now.

One of the things that you mentioned in your original statement—by the way, I didn't know this system was over 100 years old.

Mr. **Jankel**. It was designed in 1874. Parts of it were not built until the turn of the century. It is about 80 years old.

Senator **Chafee**. What bothers me is what I noted in your statement about what the original task force's conclusions were. You say the lack of consistent and sound management practices led to an unprecedented state of disrepair. My question is now are we going to keep that from happening again? Do you think the user charges are going to bring in enough money to make this money? And what is going to prevent any municipality—let's set aside the city of Providence—what is going to prevent any municipality from invading those user money charges and using them for schools or salaries?

Mr. **Jankel**. I think there are two or three responses to your question. First, the commission is a single-purpose agency.

Senator **Chafee**. Solely for the construction?

Mr. JANKEL. Construction and operation and maintenance. And as such we are accountable to the users of the system who will pay the user fees. We do not have competing priorities of maintaining a police force, fire department, school department, other functions of public works.

Senator CHAFEE. So this commission is in perpetuity?

Mr. JANKEL. It is not in perpetuity.

Senator CHAFEE. You will be like the Blackstone Valley Sewer Commission.

Mr. JANKEL. I think in some ways we are patterned after Blackstone Valley, although this system is substantially larger and has many more complex problems.

Senator CHAFEE. Tell me what you think of the user fees then?

Mr. JANKEL. The user fees under our statute will have to recoup our basic operating and maintenance costs and will have to absorb the costs of acquisition we have to settle with the city of Providence and will have to meet the local share requirements, and amendments will bear directly on the user fee system. User fees will be set at the minimum level to do the job necessary. However, we anticipate having a program for maintenance. So as a particular component of the system meets the end of its useful life, it will be replaced. But it will be replaced on a schedule so there hopefully will be no big surprises or fluctuations in our maintenance requirements.

Senator CHAFEE. Have you got an engineering firm designing this? I hear so many different names—Anderson Nichols. What is the firm that is doing this?

Mr. JANKEL. Anderson Nichols prepared for the city the step I facilities plan; that was completed in 1979. There are presently three EPA-funded design contracts going on, one with Universal Engineers for the Fields Point plant; that is, expanding and upgrading; one with C. E. McGuire for the CSO No. 2, which is on the Woonasquatucket River; and one with Castellucci Galli for CSO No. 1, which would be located adjacent to the Fields Point plant and correct the problem Mr. Olsen talked about of this dry weather discharge at Fields Point, which is substantial today.

Senator CHAFEE. But that dry weather discharge came from the salt water; didn't it?

Mr. JANKEL. No, it comes from a couple of things. There are places in the south Providence interceptor which parallel this large 110-inch overflow where the interceptor cannot handle the flow by its discharging by relief into the storm sewer. Obviously the south Providence interceptor is functioning above its designed capacity and needs attention. There are other seepages of ground water into the system and probably some illegal connections to the line.

Senator CHAFEE. Well, I am interested in this, and I could spend all day on it. But that is not the purpose of the hearing and we do have a host of other witnesses which I am looking forward to hearing. I just want to say I am interested in what you are doing. It seems the system is in shambles.

Mr. JANKEL. We would be happy to spend a half day with you on this.

Senator CHAFEE. Let's go on, Tom, and get an answer to your question.

Mr. **Corcoran**. Mr. Chairman, the language Mr. Jankel referred to in section 38 of your bill reads that:

> The reduced Federal share shall only apply to projects which receive grant approval to prepare construction plans and specifications before December 31.

In other words, it is for projects that have recieved approval to go to step II, which I think Providence received in May or June.

Senator **Chafee**. So they are well in the process. So you are safe. Oddly enough, the bill was designed that way.

OK, thank you, Mr. Whitamore and Mr. Jankel. Let's take a break and start again in 10 minutes.

[Recess.]

AFTER RECESS

Senator **Chafee**. Ladies and gentlemen, let's get started. We will have the last two panels which we want to give full time to. On the next panel is Mr. Allan C. Klepper, council president, Barrington, R.I.; Mr. John Connors, town manager of Newport; and David Strouss, who is a very articulate spokesman here for the Coalition of Coastal Communities.

## STATEMENTS OF ALLAN C. KLEPPER, COUNCIL PRESIDENT, BARRINGTON, R.I.; JOHN CONNORS, TOWN MANAGER, NEWPORT, R.I.; AND DAVID STROUSS, EXECUTIVE DIRECTOR, COALITION OF COASTAL COMMUNITIES

Senator **Chafee**. Gentlemen, why don't we start off in the order listed here, Mr. Klepper first. If you have statements, we would like to have the statements for the record.

Mr. Klepper, you may proceed.

Mr. **Klepper**. Thank you, Senator. I am council president from Barrington. As I guess the second elected official to speak here, perhaps my perspective might be somewhat different than those commissions and boards who are seeking to correct things in the abstract.

Barrington, as you may know, is a community of 17,000 people, approximately 5,200 homes, is just about to complete a 5-year sewer program for the entire program. For the sewer program in the town, some 95 miles, we have been in conjunction with East Providence on a regional sewer treatment plant. Our sewer sludge is sent out of town on a forced main system to East Providence, and in turn Barrington is to take that sludge and treat it with a new and innovative sludge compost technique.

Rather than read a prepared statement which goes over much of the ground that has been so eloquently covered many of the other speakers preceding me, rather, I would make a few general statements and then support or give comments regarding various sections in the report and keep my remarks hopefully brief.

Certainly the sewer program and magnitude of the program could not have been accomplished with the basic Federal funding and matching funds from the States.

Senator **Chafee**. How much does this State give?

Mr. **Klepper**. In our particular situation, our original program was $34.5 million, and the State was to give us $1.3 million and the

Federal Government $6.4 million. The town's original bonding was $26.8 million, a total program of $34.5. Because of inflation, because of delays, legal delays and entitlements and settling the problems of getting the system built, of course, the impact of oil going up, which petroleum is so great on asphalt as well as operating equipment, the program will top out at $48.8 million.

Senator **Chafee**. That is a lot of money for a little town.

Mr. **Klepper**. It has increased its funding to $30 million locally, the Federal to $15.7 million and the State funds estimated are $3.1 million.

You are absolutely right, it is a lot of money for a little town. As a matter of fact, this $48.8 million project we understand is the largest project of this type since the Newport Bridge and is probably because Barrington decided to sewer its entire town once, the only town in New England to have done so. I might add this has been accomplished without any graft, corruption, difficulties in any way, shape or form. So we are really proud of our record on that score, and I will come back to that point in just a mement.

Certain we solved a tremendous health problem in the town, and it contributed to stopping the pollution Barrington was contributing directly to the bay. Certainly we are in consonance with the efforts of those who spoke before to support your efforts to have discretionary funding for CSO's, so desperately needed in this State.

I would like to talk about section 2, the single-step program. We think that is preferable.

Senator **Chafee**. What kind of sewers did you put in; combined sewers?

Mr. **Klepper**. No; no combined sewers. This is a combination forced main and gravity system. Barrington, because of the topography of Barrington—and it is surrounded by water on three sides—we had a very difficult time of designing a sewer system.

Senator **Chafee**. Why would you have problems with CSO's?

Mr. **Klepper**. Not us. I mentioned that we support that because we are on the bay. We have stopped our problem in contributing to the pollution to the bay.

Senator **Chafee**. Did you use any innovative or alternative moneys?

Mr. **Klepper**. Not to my knowledge. The program that we have, designed by Camp, Dresser & McKee, is a combination gravity system with injector system and forced main to the sewer treatment plant in East Providence.

Senator **Chafee**. It goes into the treatment plant in East Providence?

Mr. **Klepper**. That is right. And it goes up the railroad right-of-way. This was a great difficulty in getting all these approvals because we had to deal with the Rhode Island Department of Transportation, Penn Central, Conrail, the Coast Guard, interestingly enough.

Senator **Chafee**. I remember you had to cross a river so you had to get approval of the Coast Guard.

Mr. **Klepper**. That is correct. And that is the particular problem. It is nice to have a one-step procedure to get your funding. Speaking from the experience of this program, which started shortly before I joined the council, we had a number of years until we could get the various approvals taken care of. Something must be done, perhaps in the way of an overall coordinating body, but something should be done from the Federal side since they are putting in so much money into the main element to be sure approvals are lined up on time and given or rejected. It is wrong to string a community out so long, as has already been testified as to inflation and our project going up at the rate of better than 1 percent per month overall on average.

We certainly with regard to section 9 would have a comment on the 2-year warranty. We think this might cause you to increase the costs of the system. Undoubtedly, this has been put into your amendment because communities have suffered and they have had poor planning or poor engineering. We can only say that our experience has been quite the contrary. We hire competent engineers. All the bids and contracts have been done in the open without regard to treating local people, if you will, any kind of shielding of contracts or local award. It has all been done on the open market. We have used an ad hoc sewer commission. We have used our conservation commission who has helped us in some of the special provisions of the delicate parts of work, and our experience to date has been very positive. Recognizing that pumps, pumping stations, special types of equipment would be foreign to our department of public works operators, we hired lead people who had the experience, and set up a new branch within the department and saw to it that the individuals were properly trained. So that we know our systems work and we know how to maintain our system.

There are, of course, warranties and guarantees built into our contracts from both the equipment suppliers and from the contractors who do the work. I think it perhaps should be an option for communities, not something mandatory, because once you make it mandatory now the government has a problem in how to keep track of everything.

Senator **Chafee**. I must say I am ambivalent about that provision I put in there about that warranty. One of the problems I think it presents is that the engineering company will then go with the safest, most proven, most unimaginative type of solution possible in order to guarantee that they won't have any trouble, and it is the antithessis of anything smacking of innovative.

Mr. **Klepper**. That is true.

Senator **Chafee**. Then several have indicated that there would be a reluctance to take on the jobs, they couldn't get the insurance, the bonding companies would be reluctant. But we are going to hear from some engineers later on.

Why don't we go to Mr. Connors.

Mr. **Klepper**. Just two more points. Your discussion with Mr. Carleton Maine about the vendor's or equal——

Senator **Chafee**. I am interested in that.

Mr. **Klepper**. Certainly I think this impinges on the kind of system we have. My understanding in dealing with the government in business is that there is a qualified product listing system that is used to insure that components that are supplied to government projects meet a certain level of acceptability. With that is a government office established to insure that those testings and compliances and awards are all maintained and a continuing program to insure manufacturing quality is met by the participating companies. If you are going to eliminate and or equal, if you are going to restrict the people too much, then you are going to end up with all the responsibility pushed back on the shoulders of the Federal Government, and I think you want the commitment made at the local level.

Senator **Chafee**. How would you have it?

Mr. **Klepper**. I would go or equal. I would eliminate the two vendors. It may be unnecessary. Most places would have three or more vendors bidding on the job. I don't see the need to have two vendors or equal. I wouldn't eliminate or equal. If you have a competent engineering firm, they are going to give you competent work.

Senator **Chafee**. I am interested in this. Nobody knows how the two vendors provision got into the bill. But we have heard testimony on having to list two or equal, then you have opened the gates to everybody out there who says he is equal, and every fly-by-nighter in the business can come in and sue saying his is equal and should have been chosen.

Mr. **Klepper**. In the matter of equipment you probably have more protection. In the matter of the contractor to install the sewer, then I would agree. We went into open bidding and there were situations we knew up front that some of the people were questionable. However, because of the professional courtesies extended by the engineering outfit, because of the relationships with EPA, people are reluctant to blow the whistle too loud and, as a result, there were contracts we had to enter into with companies that we were suspect of originally. The best we could do was know that in advance and be amply prepared, forewarned, and watch them carefully and insure their compliance with the contract, which we did.

Senator **Chafee**. I would think that would open all kinds of problems if you go to a bid on every piece of equipment. The person comes in who may not be reputable or have the experience or have the capability to maintain it, and yet, on the low bid proposition, he gets the job. Where are you then?

Mr. **Klepper**. Well, Senator, our space shot, that all went to low bidders.

Senator **Chafee**. I am not sure. What are you saying, the space shot?

Mr. **Klepper**. The space shot were all supplied by low bidders.

Senator **Chafee**. Let's not get into the space shot. I have enough to handle right here. I am not sure that is so. I am not prepared to say. I can't believe on the space shot any Tom, Dick, or Harry could come in and get the low bid. But never mind that, let's stick to sewage plants.

Mr. **Klepper**. We had qualified bidders. We went out when the situation dried up in Rhode Island, and our town manager and assistant traveled to Massachusetts, traveled to Connecticut. We went to 22, 23, 24 companies, invited them to come to the bidding sessions, the prebid conferences.

Senator **Chafee**. But you must have had bids on all kinds of pumps.

Mr. **Klepper**. No, sir, you don't take a bid in that fashion. The system is designed by the engineers, and we let out some 24 contracts. Some were subsections. But there were some 24 contracts for the total operation. That contract included the labor and all the materials and whatever equipment had to be supplied to go into that element. Most contracts for pumping stations or ejector stations were single contracts or grouped together because those used similar type contractors. The standard interceptor feeder lines, those were done by other contractors.

Senator CHAFEE. OK, thank you very much. Let's go to Mr. Connors, town manager of Newport.

## STATEMENT OF JOHN CONNORS

Mr. CONNORS. I have a very brief statement, Senator.

I would like to take this opportunity to thank you for meeting in Rhode Island in order to listen to the comments of municipal officials dealing with the EPA wastewater treatment program.

Although I have only been city manager in Newport for 4 months, I have been in municipal management for the past 14 years and previously served as town manager of South Kingstown, R.I. It was in this position in South Kingstown where I had extensive experience in dealing with EPA in the development and construction of a regional wastewater treatment system, which now serves the towns of South Kingstown and Narragansett, and the University of Rhode Island.

In my present position of city manager of Newport, I have the responsibility for the administration of a waste pollution control system which serves the city of Newport, the town of Middletown, and the U.S. Navy base. This system is dependent upon a 26-year-old primary sewage treatment plant which now must be upgraded substantially in order to be kept on line and meet EPA requirements. In reviewing the file on Newport's needs, there is a long history of time delays and correspondence with EPA and the Rhode Island Department of Environmental Management on primary versus secondary treatment. There has also been a considerable amount of time, effort and local moneys expended to try to resolve this issue.

With this as background, my remarks will be to address four specific areas of concern:

First. Our request for primary treatment without deep ocean outfall is consistent with the Reagan administration's goal of supporting programs and funding for these programs which are in themselves not wasteful and are cost effective.

Second. Se are very much concerned with the turnaround time which EPA takes to review plants and specifications submitted by local jurisdictions using consulting engineers. It generally takes too long to get a project out to bid and, in today's economy, this cost delay can be devastating. In Newport's case, years ago our estimated cost of redoing the plant was $17 million. I would dare say today it is more than twice that.

Third. There is a need for much better coordination between EPA and the State department of environmental management. In Newport's case, the State has consistently supported primary treatment with our ocean outfall. More emphasis should be placed on State review and determination of local needs. The State knows local communities better and does not generally have the turnover that EPA has. This is consistent with the Reagan administration's goal of placing greater responsibility and emphasis on the State level.

Fourth. Because of EPA requests to explore more cost-effective means of sludge disposal, Newport's project will not be ready for step

II approval by December 31, 1981, and should not be penalized for exploring more cost-effective measures.

Senator CHAFEE. Well, you were here when we discussed that. You don't have to get approval. You have to have started step II.

Mr. CONNORS. We may not be ready for that.

Senator CHAFEE. You have started step II?

Mr. CONNORS. We have started. So we are all set there.

Again, on behalf of the Newport City Council and the citizens of Newport, I thank the subcommittee for the opportunity to present this statement and hope the EPA waste water treatment program can be streamlined and improved to the benefit of the local residents.

Senator CHAFEE. Well, thank you, Mr. Connors, for that statement. We may have a question or two for you after Mr. Strouss.

## STATEMENT OF DAVID STROUSS

Mr. STROUSS. Thank you. You have heard from three Coalition of Coastal Communities members, and I would just like to present an overview of what the coalition feels the effects of the proposed amendments are on municipalities with important water resources.

Senator CHAFEE. Now, Mr. Strouss, you have a lengthy statement.

Mr. STROUSS. I have cut it down. A number of points have been raised by other witnesses. I will simply highlight.

The Coalition has been actively involved in looking at the water quality management issues and problems plaguing the Rhode Island coast. We strongly support the intent of the proposed amendments introduced by Senator John Chafee to provide a more cost-effective water pollution abatement program without abandoning the national goals and policies of the Clean Water Act. It is our great concern that these amendments are not used to open the door to weakening the Clean Water Act in 1982 or during the coming years. The State of Rhode Island and its municipalities have demonstrated a strong commitment to clean water which has been aided by the Federal Clean Water Act. The coalition certainly supports restructuring the Federal role to allow municipalities to proceed more efficiently with their waste water construction grants projects. In this region the cities and town as well as the States are in fiscal situations no better than the Federal Government's. Yet we do not wish to see the goals and policies of the Clean Water Act changed in the future due to the weakened economies of the early 1980's.

In our detailed statement we have examined how the municipal construction grants program has worked in Rhode Island.

The coalition strongly supports a new EPA allocation formula which is based on existing needs and backlog rather than projected growth.

Senator, despite our accomplishments, we have not been able to abate our worst water pollution discharges in Narragansett Bay under the existing Federal Clean Water Act. Rhode Island's highest priority for clean water is the elimination of the discharges of untreated sewage into Narragansett Bay. At this time the major sources of untreated sewage flowing into the bay are the combined sewer overflows from the heavily urbanized municipalities at the head of Narragansett Bay. Providence has 65 combined sewer overflows, Pawtucket and Central Falls 30, flowing into the rivers which flow into the bay.

You have heard about the environmental impact.

Senator **Chafee**. Thirty combined for Central Falls and Pawtucket, 30 total?

Mr. **Strouss**. Yes.

You have heard the impacts from other environmental parties. We would like to say, however, that the shellfishing grounds' closure affects the area down the bay that downstream communities possess eight beaches in the conditional zone in the upper bay, which is closed during wet weather. These beaches were heavily used in the 1960's, and there has been a marked decreased in their use in the 1970's, primarily because of the wet weather discharges.

In addition, the CSO's have recontaminated the river in these upper bay cities.

Despite these problems, the upper bay is not a dead environment yet. A sport fishing survey indicates there are still plenty of bluefish and blackfish flounder in the bay, and estimated conditionally closed shellfishing grounds could prove an estimated 7 million pounds of shellfish.

At the edge of the conditional shellfishing line of the upper bay lies the Bay Islands Park and Narragansett Bay Estuarine Sanctuary. These islands and surrounding waters offer a unique recreational and education resource to the 700,000 people who live within 15 miles of this area. Clearly, no one wishes to see the upper bay combined sewer overflows extend their crippling effect into the estuarine sanctuary or surrounding clean waters.

The problems of CSO discharges are clearly not limited to the municipalities where they originate but have serious impacts on all of the downstream communities and their water based industries and economies. Of the proposed reforms in Senator Chafee's and the administration's amendments, the most important for improving the water quality of Narragansett Bay is the special allocation of $200 million per year. Although this amount of Federal aid will not make a dent on national needs, it will allow the continued funding of bays and estuaries and the opportunity to demonstrate to the Federal Government more cost-effective combined sewer treatment and management. As nearly 60 percent of the people in this country live in coastal States, and in Rhode Island the vast majority of the 947,000 people live within miles of the bay, the potential for this water improvement program to benefit many Americans truly exists.

The older and more industrialized cities in the United States have experienced the greatest difficulties in complying with the Clean Water Act requirements. Problems specific to these older cities like Boston, Providence, and Newport include tidal inflow and ground water infiltration in their aging sewerlines, some of which are over 100 years old. The proposed amendments must address the problems of these types of municipalities if they are to achieve their goal of improving water quality in a more cost-effective manner. The elimination of inflow/infiltration and sewer rehabilitation, in certain cases, may result in overemphasis of correcting flow-related problems at the end of the system rather than addressing the source of the problems.

The coalition supports a municipal construction grants program which provides a multiyear authorization, Federal funds for highest priority projects which will achieve the most water quality benefits, and a phased reduction which does not discriminate against the needs of smaller or less developed communities. In certain cases this blanket deadline may be unjustly penalizing municipalities which have incurred delays in their facilities planning process due to their efforts to achieve cost-effective solutions. In Rhode Island coastal communities such as East Greenwich and Warwick have had final approval of their facilities plant delayed by the Federal review process.

Senator **Chafee**. You have 1 minute, Mr. Strouss.

Mr. **Styouss**. We feel a combination of other amendments may also go a far way in achieving cost-effective goals of these amendments. The combination of use of innovative and alternative technology with increased engineer's responsibility may address some of the concerns that have been voiced here.

In addition, the 208 program is an important program for the implementation of nonpoint source pollution programs and policies, and we urge that it be continued at the current funding level you have proposed.

Thank you.

Senator **Chafee**. That is a good point on the 208 program. Thank you, gentlemen.

Let me ask Mr. Connors a question on Newport. You want to go to just primary treatment.

Mr. **Connors**. Yes, sir.

Senator **Chafee**. And you have an outfall in the ocean of what depth?

Mr. **Connors**. I am not sure. We have our water pollution control commissioner here.

Mr. **Lynch**. About 40 feet.

Senator **Chafee**. Is that the bay or ocean?

Mr. **Lynch**. It is in the bay just north of the bridge.

Senator **Chafee**. What do the shellfishermen say about that? The DEM has given you the OK?

Mr. **Lynch**. Yes; they have. We haven't had any objection directly from the shellfishermen. No one has voiced a point. I am not sure. But we have had the outfall for 66 years. We have the shellfish there. It is salable. It is a class SC, I believe, at that point. We haven't had any objections that I am aware of.

Senator **Chafee**. OK, thank you, gentlemen, for coming here. The last panel, which we are going to give a fair shot to, is Mr. Peloquin, Mr. Capaldi and Mr. Castellucci.

## STATEMENTS OF ALFRED E. PELOQUIN, EXECUTIVE SECRETARY, NEW ENGLAND INTERSTATE WATER POLLUTION CONTROL COMMISSION; M. HAMDY BECHIR, PRESIDENT, NEW ENGLAND WATER POLLUTION CONTROL ASSOCIATION, INC.; V. HERBERT CAPALDI, PRESIDENT, UTILITY CONTRACTORS ASSOCIATION OF RHODE ISLAND; AND EUGENE CASTELLUCCI, CASTELLUCCI, GALLI ASSOCIATES ACCOMPANIED BY PAUL SILVA

Senator **Chafee**. All right, why don't we start with Mr. Peloquin.

Mr. **Peloquin**. Thank you, Mr. Chairman. I am executive secretary of New England Interstate Water Pollution Control Commission, comprised of the six New England States and New York. I am presenting this statement on behalf of our compact member States.

Senator CHAFEE. Where do you hang your hat?

Mr. PELOQUIN. In Boston.

Some of our States have presented statements this morning and at earlier hearings which addressed with more specificity certain construction grants reform issues.

Our States wish to commend the Senator and his cosponsors for taking an early initiative in proposing legislative reforms for the water pollution control program. Our detailed program gives the rationale and some background for the recommendations which the States make. In the interest of time, I have prepared a supplement which is the vital highlights of the States, and I will address the highlights.

Our compact States concur in the reimbursement of non-Federal funds expended for steps I and II and at the time the step III grant is made providing the current procedure for combining step II–III grants will not be affected.

The compact States, except Rhode Island, support discretionary authority to a Governor to reduce the level of the Federal share for treatment works projects. Rhode Island made its view known this morning on that issue.

The compact States, again except for Rhode Island, recommend no change in eligibilities from those set forth in the Clean Water Act. Rhode Island has indicated it would prefer elimination of collector sewers as a grant eligible item. The States are unanimous in letting the State priority list determine the projects to be funded. In my judgment, leaving eligibility for collector systems in and letting the private laws control should give Rhode Island no problems on that particular item.

There is unanimity that a reasonable level of reserve capacity should be considered as grant eligible. As an alternative, the local share of the cost reserve capacity should be limited to the incremental cost of providing such capacity.

The question of architect-engineer warranty has generated much debate, and I am sure we have not heard the last of it. New Hampshire, on the basis of its experience, feels very strongly that engineer accountability must be established and supports the provision of section 9 of S. 1274. All of our other States are greatly concerned with the feasibility and workability of the proposed amendment and recommend that the issues be studied further before locking it in as a statutory requirement. Revision of EPA regulation would alleviate many of the existing problems with regard to operational problems at treatment works.

Senator CHAFEE. What do you mean by revision of EPA regulations would alleviate many of the existing problems?

Mr. PELOQUIN. Some of the "or equal" provisions included now in some of the procurement requirements which allows the——

Senator CHAFEE. Tell me your thoughts on the procurement provisions, if you would.

Mr. PELOQUIN. I think there should be flexibility enough to acquire equipment that is compatible. There have been instances in the plants where a pump has been acquired on the basis of a certain bid and the motors related to the operation of that plant under another bid were not compatible. There were problems with the equipment the manufacturer providing the pump could only work on the pump. We have to call somebody else to work on the motor.

Senator **Chafee**. That sounds like insanity. Is that under the present EPA regulations?

Mr. **Peloquin**. The "or equal" provision contributes to that kind of situation.

Senator **Chafee**. So what would you do, eliminate the "or equal"? How do you get around it?

Mr. **Peloquin**. I believe the consultants who are in the consulting engineers' community can address that more specifically. The State viewpoint, I think, would prefer a position taken by the States this morning in providing either prequalification or an "or equal" provision or limiting the "or equal" issue.

Senator **Chafee**. This is a tough one. I think this is an area where we could really do something if we could get some kind of an agreement. It is awfully hard to figure out what to do.

Mr. **Peloquin**. I agree.

Senator **Chafee**. This isn't an issue I think the Senate as a whole is going to spend much time on. So if we come out of this subcommittee with a provision that is good, workable, it will be accepted. But I can't seem to find unanimity among the witnesses before us as to what is good.

Mr. **Peloquin**. I would be happy to address that further. The commission is having a meeting of its executive committee on Thursday this week, and I will make a point to have it on the agenda.

Senator **Chafee**. If you could drop us a line we would be delighted to have it. That is what I will ask other members of this panel, too. Go ahead, Mr. Peloquin.

Mr. **Peloquin**. To minimize program disruption, all of our compact States recommended retention of the existing allotment formula updated to use 1980 population and 1980 needs survey data.

All of our compact member States, except New York, recommended retention of the statutory provision that 205(g) funds be based on 2 percent of the authorization. New York State supports the administration proposal on this amendment.

There was unanimity that 208 planning provisions of the Clean Water Act is the logical section under which to accomplish remaining 208 planning with appropriate funding therefore added to the section 106 program grant appropriation. Again, New York State's previously submitted statement presents that State's views on that issue.

The States were also unanimous in the view that amount of set-aside for innovative/alternative technology remain the same but that its application remain discretionary.

On the question of authorizations for construction grants, the New England States are unanimous in recommending a $5 billion annual authorization for fiscal year, 1982 through 1987. We should emphasize there is a differentiation between authorization and appropriation. We recognize the administration views on the level of the appropriation. As we indicated in our statement, that is a ceiling, and the establishment of this particular ceiling would give the Congress the flexibility to appropriate within that ceiling without amending the act.

There was agreement that the priority list should be developed by the State, giving highest priority to water quality benefits and public health.

States also recommend the retention of the reimbursement provisions of section 606 of the Clean Water Act.

The issues of extending compliance dates is considered complex and recommendation is made that a detailed study of the problem be mandated with a report made to Congress under provisions of section 516 of the act.

The States applaud the expansion of the secondary treatment definition in section 18 of S. 1274 but recommend that the definition be further revised to provide that water quality and public health considerations be the determining factors in requirements for secondary treatment.

Historically, the revision of water quality standards has been a time-consuming process. The States recommend that the statutes mandate the development of a State schedule for revision of the standards and development of total mean daily loads rather than mandate the completion of such activity within a 2-year period, as now provided in S. 1274.

One provision which is not included in the current amendment is the two-tier incentive funding. The States strongly urge introduction of a legislative amendment providing for two-tier incentive funding, as originally introduced by Congressman Cleveland of New Hampshire and Congressman Wright of Texas 5 years ago, which never made it through.

Senator **Chafee**. Do I understand in your detailed statement you say all of your compact States concur in a reduced Federal share for construction grants projects?

Mr. **Peloquin**. Yes, sir.

Senator **Chafee**. Do you have that in your summary?

Mr. **Peloquin**. I thought I did.

Senator **Chafee**. Well, you might and I may have missed it.

Mr. **Peloquin**. Concur in a reduced Federal share, but leaving the issue as a matter of discretion to the Governors.

Senator **Chafee**. Yes, but do you say that in your detailed statement?

Mr. **Peloquin**. I intended to.

Senator **Chafee**. So what you would say is keep it at 75 percent but let the Governor, if he should so choose, make a lower contribution, reduce the Federal contribution; is that right?

Mr. **Peloquin**. That is right, Senator.

Senator **Chafee**. Do you think any Governor could ever get away with doing that?

Mr. **Peloquin**. The State of Washington has done it.

Senator **Chafee**. I don't know how they have done it under the present law.

Mr. **Peloquin**. The Magnuson amendment passed in 1980 gave the Governor that discretion. It is my understanding that the State of Washington is introducing that reduced share.

Senator **Chafee**. Maybe that is why they had a change of Governors out there. It seems to me it puts the Governor in a position where he says community A, you get 65 percent, and he says to community B you get 55.

Mr. **Peloquin**. I don't believe a Governor would change the share community by community. I believe the Governor would reduce the share by category.

Senator **Chafee**. You mean for an integral interceptor you would get 55, for the plant you get 65?

Mr. **Peloquin**. Right.

Senator **Chafee**. OK, fine. Mr. Bechir.

## STATEMENT OF M. HAMDY BECHIR

Mr. **Bechir**. Thank you, Senator. I am an associate professor of environmental engineering, University of New Haven, and serve this year as president of the New England Water Pollution Control Association. With me here today is the first vice president, David Blake, and the Rhode Island director, Mr. Raymond Lynch.

In defense of the program, we wish to emphasize that water quality improvement has come about in the United States as a result of the construction grants program, the eastern beach in Portland, Maine, closed for 17 years, and officials toasted the opening of the new beach just this past week as a result of the Portland treatment plant going on line. The Naugatuck River changing color almost hourly in 1970, now it has reached a state of being fishable and swimmable.

We must appreciate that GAO when citing how poorly treatment plants are operating only used a survey of permit violations. It is meaningless because the type of test that provides these results is within plus or minus 5-percent accuracy anyway, as well as sometimes even in the most pristine stream if these tests are applied the natural background pollution far exceeds the permit in some of the rural areas.

The technical side of the program is vital to making good decisions regarding the future of the program. We as the New England Association strongly concur with the administration over all budget reductions in attempting to reduce inflation and balance the budget. We also concur with the administration proposal to streamline and improve the operation of the EPA construction grants program.

In eligibility, sometimes funding of collector sewers could be the only answer to a certain specific problem, and especially in rural areas some projects hinge on the ability of that fund to get the water quality improvement going.

The reserve capacity. A reasonable reserve capacity is also a part of good planning and good design, and legislatively trying to legislate technical matters will always give less than favorable results.

Senator **Chafee**. We are not opposed to do that planning or construction. All we are saying is the Federal Government shouldn't pay for it.

Mr. **Bechir**. Yes, sir. Then we would recommend if reserve capacity cannot be funded, then an incremental cost approach should be used to determine the eligibile versus noneligible portions of the program which will make it only 10 to 15 percent that the community would have to undertake.

Senator **Chafee**. Well, I am not sure I understand that. Explain that again.

Mr. **Bechir**. Sir, if a community designs an interceptor, and it is only 18 inches, to take care of existing demands and for a reserve capacity they need to put in 24 inches, then we would like just the community pay the difference between the 24 and 18, rather than forcing them to go the 18 and then in 5 years they have got to put on 24.

Senator **Chafee**. I think we can do that under our bill if they want to go the incremental part for growth.

Mr. **Bechir**. That is great, sir.

Senator **Chafee**. Certainly under our bill that is so provided. I supposed under the administration's bill, too.

Mr. **Bechir**. We are in agreement with this concept.

Senator **Chafee**. Let's go to CSO.

Mr. **Bechir**. Combined sewer overflows, they should be funded where necessary to attain the water quality goals. This is particularly important to us in New England with our many older communities such a Providence and Boston.

A gradual phasing of new step I and step II eligibility is necessary for program continuity, and we suggest a timetable for the changes, as shown in our statement, step I grants made prior to October 1981 and prior to October 1983.

The grant funding level in your bill, sir, we strongly support it because we feel that we have to minimize and hopefully completely eliminate the dependency of the local government on the Federal money because of the abuses of adding things on because we just pay 10 percent on it, or we pay a dollar on every 10. We strongly support the reduction so that just the worthwhile projects are built, and the communities then exercise the overview function that has been lax lately.

Senator **Chafee**. I might say there is not unanimity on support of the witnesses here. I am with you, and I think the reason I went to the reduced share is just as you say. I went through this when we were doing our Federal highway construction program. If you get the state only contributing, or whatever the local government is, contributing a minimum amount, there is very little concern for the overall cost of the program.

Mr. **Bechir**. Yes, I think it is an underlying cause of inflation that we continue on this, and that is why our association, which engulfs all engineers, operators, officials from communities as well as State and Federal agencies, we support that approach to retain the oversight and really to get the projects that are worthwhile going, and then when our economy moves maybe something else could be done.

As far as the priority list, we would like to see it based on water quality benefits and public health.

We agree with the I/A and rural set aside provision. And as far as the reimbursement, we support the continuance of reimbursement, again as a method of abating inflation and especially with our many large cities and metropolitan areas they could move ahead with the projects, when if they did not they incur a great deal of costs due to the delays.

As far as the secondary treatment, we do agree with your stand in S. 1274. A redefinition of secondary treatment is needed to allow for flexibility in methods of treatment.

The issue of waivers is very important in New England, which I must have to speak to, for coastal treatment plants. This issue should be addressed and decisions should be made regarding treatment in excess of primary. Many industry plants in urban areas are being delayed pending waiver decisions.

Senator CHAFEE. Is Newport still waiting for a decision to be made?

Mr. LYNCH. No.

Senator CHAFEE. But the Federal Government can give waivers currently, right?

Mr. BECHIR. My understanding, sir, is that the extent of information that is required is extremely lengthy and nongrant eligible that it discourages anybody from applying for waivers.

Senator CHAFEE. Is that your experience?

Mr. LYNCH. That is correct. The cost of it is $70,000 for the city of Newport, $68,000, $70,000.

Senator CHAFEE. Your name, please?

Mr. LYNCH. Ray Lynch.

Mr. BECHIR. Ray Lynch is the Rhode Island director of the New England Water Pollution Control Association, but he is also the superintendent for public works for the city of Newport.

Senator CHAFEE. Continue, Mr. Bechir.

Mr. BECHIR. As for engineer's accountability, we feel a great deal more study and discussion before a position is adopted legislatively would be the wisest move. This organization would be more than happy to offer the experience of its membership to such discussions. No engineer can warranty plant performance without having full responsibility for operational control for the warranty period.

Senator CHAFEE. OK, I think I am familiar with those arguments.

Mr. BECHIR. One last question with regard to the engineer's accountability. I think our Nation has undertaken the most successful retraining program ever that has been undertaken in the entire world, and that is what is needed. I know, sir, you would not want just the 2 year. We will want our water pollution control plants to function forever and function effectively forever. And after the engineer leaves, we need the training, we need the well-trained operators to keep the water quality improvement clean.

Thank you very much.

Senator CHAFEE. Thank you, Mr. Bechir. Next is Mr. Capaldi.

## STATEMENT OF V. HERBERT CAPALDI

Mr. CAPALDI. Thank you, Mr. Chairman. Please let me first thank you for giving me this time before your committee to discuss S. 975 and S. 1274. My name is Herbert Capaldi, president of V. F. Capaldi Construction Co., and our firm has been installing sewer and water pipelines for over 40 years. This year I am also the president of the Utility Contractors of Rhode Island. The organization is comprised of 25 member firms that either construct utility projects or supply materials and equipment used on these projects. We are a member of the National Utility Contractors Association, made up of over 2,500 companies working primarily on sewer and water contracts.

Senator CHAFEE. I tell you, Mr. Capaldi, now you discuss the funding this year, and the zero funding would be a step backward. I agree. Why don't we go on to the next page. Then you say you would like to see the spending increased from 2.4 to 3.3. Well, it is just not going to be. So why don't we get to the next subject.

Mr. **Capaldi**. I was a little upset.

I fear one major change; that is, the principle of handcuffing the States and local governments to setting the largest percent of funding for treatment plant work. This may require an enormous outlay in plant facility construction where for a smaller investment in some pipeline work their clean water problem might be solved. Antiquated collectors, tide gates, slot structures and interceptors in some areas are culprits that are adding to the highest amounts of pollution.

Senator **Chafee**. Well, I think that is a good point. That is the point the Providence people were making. Maybe if they could repair those gates they wouldn't have to increase the size of the plant. I must say this is a tough problem. If they fix the gates, they wouldn't have to put the money in the plant, but they are perhaps deterred from fixing the gates because they don't get Federal funding.

Mr. **Capaldi**. That is correct.

Senator **Chafee**. Well, I guess that is what we get paid for. Let's go on.

Mr. **Capaldi**. We realize our national organization presented testimony for your subcommittee on June 24, so we will attempt to address ourselves to local issues in matters that were not fully covered by Mr. Leon Asadoorian in his testimony before your committee.

We would like to reiterate that we, as members of Rhode Island Utility Contractors Association, also strongly feel the issue of State privacy should be of paramount concern to the Environmental Pollution Subcommttee as you markup S. 1274. We believe the people who run the State environmental program here in Rhode Island best know the things that are needed to clean up existing pollution problems. We would request, therefore, that you not tie the state administrators with a limited set of eligibility criteria. In this regard we are extremely pleased to see your emphasis in S. 1274 on funding for CSO's.

We have in our possession a study conducted by the engineering firm of Castellucci and Galli which shows that by eliminating tidal inflow and dry weather discharges into our treatment system we can remove 4.5 times the pollutant from Narragansett Bay for one-foruth of the cost of building a new plant and making other system improvements. I blelieve Mr. Paul Silvia from Castellucci and Galli will have more information on that.

We believe this emphasizes our points that, given local flexibility in spending EPA grant funds on the most effective and efficient methods, we will clean up our city and provide more pollution controls than having to labor under a stringent set of eligibility requirements.

Senator **Chafee**. I must say the point though is that common sense has to prevail here. There are some instances the Federal Government can't do things for local communities, and you would think local communities would say, therefore, we will proceed to make these changes ourselves. Is everybody so hooked on the Federal Government that commonsense has gone out the window, and in order to get 75 percent Federal funds we will go down some ridiculous path rather than putting in 100 percent of our own funds of a far more modest nature?

Mr. CAPALDI. The problem with most of your large cities and towns is the tax structure and the lack of user fees.

Senator CHAFEE. In this case it is not. We are citing the Providence plant, where indeed Federal funds have been provided—$87 million is there. That doesn't mean it should be gobbled up because it is there. If it is a question of $16 million, you say the city can eliminate 120,000 tons of pollution by spending $17.6 million to eliminate tidal inflow and dry weather discharge, well, would they pass up that and go to some construction program that promises 75 percent Federal funds that won't do the trick? I don't know why I am jumping on you on this.

Mr. CAPALDI. The purpose is education has to prevail. That is why we are bringing them to your knowledge, and Mr. Silvia will go into further detail on the subject.

Senator CHAFEE. I will jump on Mr. Silvia then.

Mr. CAPALDI. We realize that our national office has stated that collector sewers should remain eligible for funding. We further realize that some have mistakenly assumed that collectors automatically means growth. This is not the case. EPA regulations (program requirements memorandum 78–9) prohibit funding collector sewers in areas where there is not substantial human habitation. Substantial human habitation is defined as 1.7 people per acre, or about one household every 2 acres.

Senator CHAFEE. If that is substantial habitation I will eat my shirt—1.7 people per acre.

Mr. CAPALDI. Prohibits funding for that.

Senator CHAFEE. That is pretty generous, isn't it, substantial human habitation. But never mind. That is the current EPA rule?

Mr. CAPALDI. That is correct.

Senator CHAFEE. No wonder we are seeking changes.

Mr. CAPALDI. We are submitting a copy of the program requirements memorandum for the hearing record. (See p. 183.) If the State criterion is the PRM, and it is followed, collector sewers would only be funded where they clean up existing pollution problems, such as failed septic systems.

The Rhode Island Utility Contractors Association in no way supports Federal funding of collector sewers for growth. If a local community wants to install growth oriented collectors, then the community should pay for such collectors. Furthermore, excess reserve capacities should likewise be funded by local communities. EPA should only fund such plant capacity as is needed to treat known needs as of the 1980 census.

Senator CHAFEE. Thank you, Mr. Capaldi, that is helpful, and I appreciate it, and also your coming down to Washington to see me.

Next is Mr. Castellucci.

## STATEMENT OF EUGENE CASTELLUCCI

Mr. CASTELLUCCI. Thank you, Senator. We appreciate being here. With being the last witnesses, of course, all the steam has been taken out of our presentation and all the problems have been addressed.

Senator CHAFEE. They haven't been resolved; they have been addressed.

Mr. **Castellucci**. Let me give you a brief statement. It won't take too long. Then I would like to ask Paul Silvia, who is the project engineer who has worked on all the Providence systems for the last 4 years and has a detailed knowledge of its problems, to make a statement, and maybe with this information it can better help to resolve your problems in your presentation at your next committee meetings.

As you know, in 1977, the Providence sewage treatment plant was actually not functioning at all. The illusion of trestment was there, but the plant was not functioning. When the facilities plant was completed by Anderson Nichols it was premised on the fact the treatment plant was not operating; hence, a brand new treatment plant was proposed. Little emphasis was given to some of the outside influences to the treatment plant. One of which, as you all know, has been mentioned many times is the tidal inflow to the plant. That means that two times a day the Providence waste water treatment plant is treating water in Narragansett Bay. We actually have seen fish swimming in the lines heading to the plant and going back to the bay to survive. We have also seen the oldest system of interceptors with its slots that contributes greatly to the dry weather flows, and we have seen the overloaded effect and how it produces complete, severe problems to Narragansett Bay pollution.

Senator **Chafee**. Also, I should think salt water would have a corrosive effect on the equipment.

Mr. **Castellucci**. Absolutely. The two biggest problems are the deterioration of pumps and equipment, and naturally it washes out the biomass and make impossible treatment because you have a sludge activation process that is involved here.

Now, Senator, the point we want to make is over the 4 years that we have been involved with this plant we found that, although the new treatment plant as proposed is a fine objective, we feel that there are higher priorities that should be addressed. Some of these priorities are less costlier than the treatment plant itself. We still feel the treatment plant is a must. But on the basis of a preventive maintenance program and one that could be used 10, 15 years from now, we feel that the engineering design that is taking place should continue, as should the CSO problems contributing to the bay pollution.

Bay pollution, for information's sake, to better understand the whole problem, after a severe rainstorm you have, based on hydraulic data and based on the rate measurements, CSO contributes somewhere around 2,600 million gallons a day of pollution. That is the number we use. The treatment plant itself after that same flooding period contributes only 160 million gallons a day pollution, based on hydraulic and flow rates. That means the Providence waste water treatment plant is contributing less than 5 percent of the Narragansett Bay pollution. So it seems obvious and commonsense, as you well know, Senator, that maybe we are missing something here. And the point I think we are missing is we need to address CSO, combined sewer overflows, which contribute greatly, twice the rate. We also are missing the faulty tide gates, the slots, the overloaded interceptors. The data you have here, just to read it again, shows if you eliminate your tidal inflow, which is your tide gates, your dry weather discharges, which are the provision of new relief interceptors and slot structures——

Senator **Chafee**. Is that Mr. Olsen's testimony?

Mr. **Castellucci**. No, that was our testimony. Apparently they have copies of it.

But again numbers don't apply. Our information shows 120,000 tons can be eliminated for $17.5 million in comparison with 260,000 for $85 million.

Now my associate, Paul Silvia, who is working with this project, would like to read a brief statement. It is only a 1-page statement, Senator. Then I would like to quickly comment on perhaps a suggestion that we might have on how these priorities can be reallocated and how money may be possibly made available for these alternative methods.

Senator **Chafee**. OK.

## STATEMENT OF PAUL SILVIA

Mr. **Silvia**. The firm of Castellicci & Galli has been involved with the city's treatment plant and sewerage system since 1977. The attached priority diagrams are based on our experience with the system.

We recognize that the city's treatment plant was a large contributor to bay pollution prior to rehabilitation. However, now that the rehabilitation has been successfully completed, the plant has proven that it is capable of meeting present NPDES standards during dry weather.

Based on information we have compiled, the plant, in its existing configuration, could produce effluent quantities well below the present NPDES standards, simply by eliminating the effects of tidal inflow. Wet weather operation could also be improved by adding more primary tanks and expanding the chlorination facility. These two modifications would allow the plant to provide primary treatment and disinfection for flows up to 200 million gallons per day.

Raw sewage discharges resulting from hydraulically overloaded interceptors and control structures contribute approximately 15 million gallons of sewage to the city's rivers each day. New interceptors and control structures could eliminate these discharges for relatively small amounts of money.

The attached cost estimate indicates what we believe to be the most cost-effective approach to solving Providence's pollution problems. Please note that dry weather discharges, tidal inflow, pumping station rehabilitation and treatment plant primary system expansion could be done for a total cost of $32 million.

We have also attached information concerning the amounts of pollutants removed versus the cost for removal.

Combined sewer overflows are perhaps the largest single bay pollution source that the city must deal with. As a result of these overflows, parts of the bay are closed to shellfishing every time rainfall in excess of a certain amount, which is determined by RIDEM, occurs. The elimination of CSO would do much to improve bay water quality.

[Additional information submitted for the record follows:]

castellucci, galli associates

## CITY OF PROVIDENCE
## SEWERAGE SYSTEM IMPROVEMENTS
## PRIORITY LIST

### SEWERAGE SYSTEM REHABILITATION COST

| | | |
|---|---|---|
| Tide Gate Structure Replacement | | 5 Million |
| Relief Interceptor Installation | | 12 Million |
| Slot Structure Replacement | | 2.5 Million |
| | Total Cost: | 19.5 Million |

### PUMPING STATION REHABILITATION COST

| | | |
|---|---|---|
| Three Pumping Stations (Includes variable speed drives @ Main Pumping Station) | | 2.5 Million |
| | Total Cost: | 2.5 Million |

### TREATMENT PLANT EXPANSION & IMPROVEMENT

| | | |
|---|---|---|
| Expansion at Plant to handle up to 200 MGD of wet weather flow (capacity of Main Pumping Station) | | 10 Million |
| | Total Cost: | 10 Million |

| | |
|---|---|
| TOTAL COST OF ALL WORK INDICATED ON PRIORITY BOARDS (Excluding CSO #2 & #9) | 32 Million* |

*Cost subject to change based on rate of inflation at time of construction.

## PROVIDENCE WASTEWATER SYSTEM

| | POLLUTANTS TO BAY (TONS/YR) AFTER TREATMENT | UNTREATED POLLUTANTS TO BAY (TONS/YR) DRY WEATHER DISCHARGE | ADDITIONAL POLLUTANT REMOVAL OVER PRESENT TREATMENT SITUATION (TONS/YEAR) | CAPITOL COST | INCREASED ANNUAL O&M COST | TOTAL ANNUAL PRESENT WORTH COST | ADDITIONAL POLLUTANT REMOVAL COST (20 YR PERIOD) |
|---|---|---|---|---|---|---|---|
| EXISTING WWTF (2) | 3975 | ------- | -------- | ------ | ------ | ------ | ------ |
| CONSTRUCTION OF NEW WWTF (3) | 2650 | ------- | 1325 | $70M (4) | -0- | $3.5M | $2641/ton |
| EXISTING WWTF WITH TIDAL INFLOW ELIMINATED (REPLACEMENT OF TIDE GATE STRUCTURES) | 1392 (5) | ------- | 2583 | $ 5M | $0.033M | $0.27M | $ 104/ton |
| ELIMINATION OF DRY WEATHER DISCHARGES (NEW RELIEF INTERCEPTOR AND SLOT STRUCTURES) | ---- | 4564 | 3424 (7) | $12M | $0.012M | $0.61M | $ 178/ton |

IN SUMMARY

Over 20 years, one can eliminate 26,500 tons of pollutants for $70M by constructing a new WWTF or one can eliminate 120,140 tons for $17.6M by eliminating tidal inflow, and eliminating dry weather discharges.

4.5 times the pollutants can be removed for one-fourth the cost, by incorporating the second set of the above mentioned alternative.

1. Based on 20 year period, and present worth factor of 10.29 (7-3/8%).
2. Based on interim NPDES limits of 45 mg/l total suspended solids (TSS).
3. Assuming effluent of 30 mg/l TSS.
4. Capital cost based on Universal Engineering Corp. estimate.
5. Based on "Wastewater Treatment Facility - Providence, Rhode Island - Preliminary Design Report" dated February 11, 1981 and prepared by Universal Engineering Corporation. This report revealed that all pilot plant studies showed that the treatment efficiency was improved an average of 65% when tidal inflow was not present.
6. Assumes dry weather discharges totaling 15 MGD and 200 mg/l TSS. Treatment costs for the flow diverted to the WWTF are not considered, as this cost would be offset by the reduction of flow to the WWTF by replacement of tide gate structures.
7. Assuming 75% treatment efficiency.
8. Estimated cost.

Senator CHAFEE. Let me just say that this is excellent information, but I am not the person to convince. There is a system set up, which you have a commission, Mr. Jankel and the board and the commission, which obviously you have presented this information to.

Mr. Castellucci, you had another point you wanted to make.

Mr. CASTELLUCCI. Yes. Perhaps the method of funding could be reallocated to the State, that instead of government emphasizing only wastewater treatment plants and combined sewer overflows be eligible, perhaps, as many people have mentioned before, the need based on a formula could be used, and then, for example, if Rhode Island were allocated *x* dollars, a commission such as Narragansett Bay Commission would be responsible and charged with allocating—this would be a State commission—allocating where these funds would go on a priority basis. They would be the screening agency. For example, older cities would have older plants as well as older systems that contributed to the inefficiency of those plants. The formula would include this information. Hence, Rhode Island, being one of the older States and having some of the oldest cities, like Providence, Pawtucket, Newport, and so forth, would get *x* dollars based on a fair distribution of the little moneys that are available. Then a program which can be overseen by the Narragansett Bay Pollution Commission can allocate these funds in a priority that gets you the most for your dollar. And that is my statement as concerns that particular bill.

Senator CHAFEE. Well, I see the problems we are presenting here, and I understand it. What you are saying is those communities who have not maintained their systems in the past, and indeed have abused the system in some way, would receive extra funds to be made whole, while the communities that have kept their system up to snuff would not receive the money.

Mr. CASTELLUCCI. Well, that could be an abuse, Senator, and naturally it is something you have to face. But can you penalize what has happened in the past? Can you penalize the present for what has happened in the past? At least you have got to start somewhere, and this is a good start.

Senator CHAFEE. Also, the objective, of course, is to improve water quality. So if that is what you are trying to do.

All right, I appreciate your testimony, and let's wrestle with this.

We have some statements for the record from Kim Allsup Associates, Mr. Paul Klinkman and Ms. Janet Wiener which we will place in the record. (See pp. 189, 192, and 195.)

One more question for Mr. Castellucci and the other gentlemen. I forgot to ask about the bids, one manufacturer equal two manufacturers. Why don't we go back briefly.

Mr. Castellucci, please give me your thoughts, if you would, what do we do about this delemma? What is the best way to proceed?

Mr. CASTELLUCCI. I can only tell you what we do by our own experience, and it has proven successful. We have very little problem with it.

First of all, the reason most engineering firms and architects call for a manufacturer is a design and certain performance has to be set for this particular project.

Senator **Chafee**. Did Mr. Marcello get away? He was here seconds ago. I talked to him briefly, and he agrees with one or equal.

Mr. **Castellucci**. Yes, we would recommend one or equal, and the reason we call for a particular manufacturer is we can work with a representative. However, we must quality with the or equal. The reason we do that is, I will repeat, we have to establish certain design criteria. We have 10 different manufacturers and they have 10 different performances and types of equipment. So we have to at least base it on one. So we do definitely recommend one manufacturer and an or equal.

However, there is another way solve this problem. Sometimes we have used successfully in the past no manufacturer called, and we have what we call a performance type of specification. In other words, this equipment shall do this. This CFM shall have so many built-in quantities. And this is the alternate method.

So you have two ways of getting around, and they are safe, proven methods, Senator.

Senator **Chafee**. Why is the present system worse, that says you designate two pieces of equipment or equal?

Mr. **Castellucci**. It is easy to explain, Senator, because you might be specifying manufacturer X that produces valves and manufacturer Y that also produces valves, and it is known throughout the business that manfacturer Y's valves are much cheaper than manufacturer X's valves. If you call for those two manufacturers, naturally everybody is going to bid on Y. So you have narrowed it. And if you don't have an or equal manufacturer Y is going to get it.

Senator **Chafee**. No, you would have an or equal. The present language of the law says two manufacturers or equal. Now why is that no good?

Mr. **Castellucci**. Because you are establishing two separate standards.

Senator **Chafee**. You automatically start off with two standards?

Mr. **Castellucci**. Right.

Senator **Chafee**. Mr. Bechir?

Mr. **Bechir**. Senator, there was a statement that we used to have in the specification asking for a certain number of years of experience in doing this, whether it is the construction of pumps or the construction of valves or whatever is needed. Then as a result of 92–500 and amendments this statement was ruled later noncompetitive and asked to be taken out. If you ask for some manufacturer that has any numbers of years of experience in the field of equipment manufacturing, I could not pass that by EPA; EPA will strike that out. As such, this is what brought in the fly-by-night outfits that produce the kinds of equipment that has not stood the tests of time and performance under conditions less than perfect conditions. And if the engineer, with again the integrity of his design, should specify the manufacturer should have a number of years of experience in producing this type of equipment, that will go a long way toward getting away from many of the manufacturers that do not have the experience in the heavy-duty type of manufacturing.

Senator **Chafee**. So you are saying add a provision that you have to have $x$ number of years of experience.

Mr. **Bechir**. Yes, sir, and that was in the law prior to 92-500, and the amount of failures of the systems were not as frequent as currently.

Senator **Chafee**. What do you say to that, Mr. Castellucci?

Mr. **Castellucci**. The problem with that is it would immediately be struck down by a court. You can't let it stick. All you have to do is contest it. It is like bidding on a Federal job. If you are the low bidder you are going to get the job. Try to give to the second low bid, because there are Federal funds, the low bidders can always contest and tie it up in court and eventually they will get it. We have had that happen many times.

Senator **Chafee**. Are you going to have it happen with specifying one or equal?

Mr. **Castellucci**. No, because the one manufacturer we specify sets the standards. It is like having a performance type of specification. You are setting the standard. It must do this, this or equal. And we can judge by the performance data that is submitted from one manufacturer to another whether or not this will.

Senator **Chafee**. But the fly-by-night fellow comes in and says my pump will do that.

Mr. **Castellucci**. He will have to prove it and he will have to to submit engineering data that will substantiate that before we approve it. Now you must remember architectural engineers require that the architects or engineers review what we call shop drawings that are submitted, and these are catalog cuts and other data submitted by suppliers and subcontractors, and we review these and match them with the plans that we have designed. Now if they do not match, we reject them. We have that power to reject those plans, and they have to remit and submit new equipment until they meet the requirements we have called for and specified.

Senator **Chafee**. OK; thank you all very much.

[Whereupon, at 1:20 p.m., the subcommittee recessed to reconvene subject to call of the chair.]

[Statements and other material submitted for the record follow:]

# STATEMENT OF
# CARLETON A. MAINE
# ASSISTANT DIRECTOR FOR REGULATION
# RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
# BEFORE THE
# SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION
# COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
# U.S. SENATE
# JUNE 29, 1981

I wish to thank you for the opportunity to comment on proposed amendments to the Federal Water Pollution Control Act relating to Construction Grant Program.

The original purpose of the Clean Waters Act was to abate pollution. The construction pace of necessary projects in many states such as Rhode Island has been set by the availability of federal funds. Understandable, fiscal constraints has severly limited federal funds and thus delayed necessary costly projects because the funds have not been available and cannot be expected to be available during the period that the projects should be constructed. Where a municipality or state has acted responsibly and constructed the needed facility eligible for federal participation, without the federal funds, they should be reimbursed when and if federal funds become available. As an example, the voters of Rhode Island have made available $87 million to advance the federal share of an estimated $130 million most urgent water pollution abatement project for metropolitan Providence in a timely period. Rhode Island now receives $11 to $12 million of federal construction grant funds for 1981. Without this advance of state funds, the project would need to be broken into at least 10 smaller projects, if at all possible, and take over ten years to build a facility which is urgently needed now. In addition, all other necessary projects in the state would be halted. The cost of the combined 10 segmented projects would be significantly higher because of both inflation and economy of scale. Certainly, it is in the best interest of water pollution control and the taxpayer for the project to proceed expeditiously. I see no reason why the state should not be reimbursed for the federal share when and if federal funds become available. I recommend that the reimbursement provision that was an amendment to the Federal Act sponsored by Senator Chafee be reinstated in the Federal Water Pollution Control Act as well as the Appropriation Act.

The Industrial Cost Recovery Section of the Clean Waters Act was repealed last year and replaced by the Industrial Cost Exclusion Section. Although I have never been in favor of the repealed cost recovery system, on which I testified before both the Senate and House Public Works Subcommittee in April 1974, the substitute, industrial cost exclusion, commonly referred to as ICE, is less equitable and encourages each industry to install and operate its own waste treatment facilities. Most industrial waste can be treated more efficiently and effective at a municipal system where a continuous balanced diet to support the needed biological growth can be expected to exist. The economies of scale in treating all the compatible waste from a community at a municipal plant provides financial advantages. More importantly, the ICE will have a degrading impact on water pollution. No treatment system that is within the financial reach completely removes pollution from the waste stream; a residual of pollutants always remains. If we require each industry to install their own treatment system with a discharge of pollutants, all streams where industry are located will be polluted to a certain degree and interfere with the usefulness of that stream. If all waste are treated at a central treatment system such as a municipal system, there will be one discharge with degradation in one area rather than degradation over the entire reach of the stream. For this reason, we have encouraged industry to locate where municipal services are available in the developed areas rather than provide their own service in the undeveloped areas. Now under the ICE we are encouraging industry to get out of the municipal sewer system, which I believe is a step backwards in pollution control.

The proponents of ICR and ICE have argued that federal funds should not be used to build facilities which will in part serve industry; however, if we look at the tax base from which the federal funds originate, we find that industry and businesses are a large contributor to the source of federal funds. Industry is also required to support other services which they don't use directly such as schools, libraries and so forth.

EPA studied the consequences of the industrial cost exclusion provision of the clean waters act and reported to Congress on March 13, 1981. This report shows that ICE will do little to reduce the governments outlay for municipal treatment facilities. The study found that communities will suffer costly delays in their construction timetables implementing ICE which will increase the federal share due to inflation. The study also reports the increased cost may affect the profitability and viability of industries. Municipalities that have already built treatment facilities will have a competitive advantage over those affected by ICE.

It is therefore recommended that the ICE provisions be repealed as proposed in House Bill HR 2957 introduced by Representative Howard. Industry should be required to pay their fair share of operation and maintenance and to pretreat their waste where such waste are found to be inimical to the sewerage system or the contaminants pass through the treatment process and interfere with the use of the receiving waters.

I concur with Section 5 of the Senate Bill 975 and Section 4 of the Senate Bill 1274 limiting eligibility of projects for federal participation to treatment facilities and interceptors provided combined sewer corrections are added to the eligibility where such corrections are found to be necessary to meet water quality standards. These sections eliminate eligibility of lateral sewers, storm sewers and correction of infiltration problems. The federal construction grant program was originally intended to be used to abate water pollution and then revised in 1972 to include encouragements for new development. Construction of lateral sewers is a development tool which adds to water pollution and does not abate water pollution. In Rhode Island we have set very low priorities on construction of lateral sewers and thus have not had the luxury of funding these projects with federal monies. Correction of infiltration or inflow is necessary where cost-effective. However, this should be the responsibility of the community to save treatment plant construction costs and operation costs.

We are mindful of the staggering cost of combined sewer corrections. In many cases the benefits from such corrections are not commensurate with the cost particularly where the controlling water quality criteria is bacteriological and the bacteriological pollution from urban runoff, which will continue, overshadows the bacteriological pollution from combined sewer discharges. However, there are some cases where combined sewer discharges are the major source of pollution of the receiving waters. Benthic deposits are depleting oxygen concentrations to the point that septic conditions are prevalent with accompanying malodors. In such cases more benefits can be achieved per unit cost by combined sewer corrections than other eligible projects. Therefore, combined sewer corrections in such cases should continue to be eligible for federal participation in the interest of water pollution abatement. It is recommended that combined sewer corrections be eligible for federal participation where it is established to the satisfaction of the regional administrator of EPA that such corrections are cost-effective in abating water pollution, are necessary to meet the water quality standards and are in the fundable portion of the State's Priority List.

The proposal to reduce the percentage of federal participation in eligible projects as contained in Senate Bill 1274 is supported. I believe this is superior to lowering the federal share by category or step at the discretion of the governor of any state as proposed by Senate Bill 975. Realizing that there must be reductions in all federal programs, it becomes necessary to reduce the federal share so that all necessary projects can proceed and be treated equitable. It is important, however, to reduce the federal share gradually so that those communities that have obtained local financing anticipating a large federal participation can continue the project otherwise these projects will be halted. It is unfortunate that the federal share was set so high in 1972 as this has encouraged communities to attempt to build elaborate rather than the modest facilities needed to abate water pollution.

I agree with Section 8 of both Senate Bill 975 and Senate Bill 1274 which limits federal participation in construction to those facilities which are presently needed in view of the limited funds expected to be available. However, the local community should be required to construct the facilities large enough to accommodate anticipated growth over the reasonable life of the facility. The community would completely fund the reserved capacity. It is recommended that the cost of reserve capacity be determined as the incremental cost above the cost of the currently needed capacity as opposed to the cost based upon the ratio of the capacities. For instance, based upon the average of 6 recent bids, a 36" interceptor will cost $82.50 per foot compared with $84.80 per foot for a 42" interceptor so that the reserved capacity cost should be $2.40 per foot, or a 3 percent increase in cost. The carrying capacity has been increased from 9.7 to 14.8 million gallons a day or a 53 percent increase in carrying capacity for a 3 percent incremental cost.

I endorse the concepts of Section 8 of the Senate Bill 1274 which places definite responsibility upon the design engineer to ensure that the treatment works will perform in accordance with the design specifications for a 2 year period after completion of construction and initial operation. Although enactment of this section may encourage engineers to over design facilities, the states design review and the value engineering service should recognize these problems and provide a means of preventing over design. In all cases, the design engineer should be responsible for the construction inspection which we have been encouraging at all projects in Rhode Island. In addition it will be necessary to engage the design engineer to supervise the operation of the facility during the assurance period, which I believe is money well spent. To properly design facilities, an engineer should have current operation experience. The more reliable design engineers are currently showing proper interest in making sure the facility operates as designed to the extent that some have even underwritten the cost of replacing improperly specified equipment. These engineers should not object to this amendment; however, some engineers are more interested in recovering the design fees and do not adequately concern themselves with the operation of the specified facility after it is built. They will probably make the same errors in judgement on the next job. The concept of this amendment is necessary to protect the taxpayers and to maintain the integrity of the engineer profession.

No discussion of the Clean Waters Act or any activity involving EPA can be complete without discussing the need for streamlining the entire process. Much rhetoric has developed since 1972 on this matter and it appears the more we discuss streamlining, the more cumbersome the process becomes. Good common sense has been replaced with 'cover your rear'. Some of the fault lies with the Act, but much of the fault rests with the administration of the Act and its endless reams of regulations. Congress realizing some of the problems created by the ever changing EPA regulations placed restrictions on adopting regulations but this didn't slow EPA down. Then came the barrage of Program Memorandums and Program Requirements which are interpreted as being equivalent to regulations as EPA holds the purse strings. This has resulted in the designer, contractor, EPA and even ourselves becoming more concerned with the edifice of paper than the actual facility. In these periods when the cost of government is being questioned, with justification, it is necessary to eliminate most of the unnecessary paper shuffling that is inherent in the program. I support the states taking over the federal responsibility of the construction grant program, but this delegation only transfers the problem. The states are considered only a field office for EPA and are required to not only perpetuate the nonsense but to duplicate it.

There needs to be additional legislative and administrative reforms in the program to reduce the financial impacts. Both the Association of State and Interstate Water Pollution Control Administrators and the National Governors Association have developed many recommendations for reform which should be given serious consideration.

# TESTIMONY BEFORE
# SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION
# COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
# UNITED STATES SENATE

by

Robert E. Moore
June 29, 1981

I am Robert E. Moore, Director of Water Compliance Unit of the Connecticut Department of Environmental Protection, Hartford, Connecticut and am representing that agency.

Connecticut supports in general the testimonies presented before this committee by the Association of State and Interstate Water Pollution Control Administrators and by the New England Interstate Water Pollution Control Commission of which we are members. However we would take this opportunity to offer our comments and concerns on specific proposals in S. 1274 and S. 975.

The construction grant program under the Clean Water Act has come under question and its success has been inappropriately weighed against the "success" of the interstate highway construction program The success of the highway program is measured by miles of concrete and asphalt weaving in and out, around and over our cities, towns and counties. It is not measured against the cost and ease of operation and maintenance, the miles under repair, the miles meeting original design standards, the number of vehicles using the system, the number of failing alternative transportation modes such as railroads, the number of urban centers dying because of travel around the city, the amount of urban sprawl created along its paths and the amount of air pollution caused by the traffic.

The success of the water pollution program is not measured by the miles of concrete and steel pipes laid under ground carrying the waste waters of our people to treatment, most times relieving water pollution and public health problems. It is not measured by the number of treatment plants where waste waters formally went untreated or partially treated into our rivers making them unfit for fishing or recreation. It is not measured by the miles of stream achieving water quality standards allowing swimming and fishing where it had not existed for 50 or more years before. It is not measured by the life forms now living in our lakes, rivers and estuaries like the salmon and shad which have now returned to the Connecticut River.

The success of the program is being measured by 1 or 2 mg/1 of BOD test or suspended solids test or a chlorine residual over permit limits occurring once a month or once a year by people who do not understand the terms let alone the design and operation of these complex sewage treatment works or the ability of the receiving waters to accept and assimilate the discharging waters. It is being measured by the bureaucratic process created by U.S. EPA in administration of the program. It is being measured by cases of excess capacity and sprawl caused by sewer construction.

The success of the program as compared to other public works programs is not being fairly or accurately weighed and I see this being used to justify lower or zero funding and unwarranted changes in the management of the program. The true measure of the success needs to be accurately addressed before changes proposed be implemented and the program remain in tact with previous funding commitments in place.

Zero funding for fiscal '82 will disrupt Connecticut's water pollution control program severely. All of our FY 81 funds will be obligated by October and no new projects would start until FY 83. The first $15 million or about 60% of Connecticut's 1983 allotment would be directed to project increases which will have accrued, the remaining would be committed to 1 project, the City of New Haven, This action adds to the problems of irratic funding which have plagued the grant program under the Federal Water Pollution Control Act as amended since its beginning. The impacts are more intense in states that routinely obligate all their funds and have large needs. Zero funding may cause projects which have had to be phased to go uncompleted and previous expenditures for such projects wasted with no benefits to water quality. Under present priority systems, some projects may not be picked up again for years.

The proposed funding level of $2.4 billion does not reflect the needs of Connecticut or the country. At this level, with no FY 82 appropriations, only 4 general projects and 2 small community projects will be funded between FY 82 and FY 86. Six projects out of 107 identified projects or $106 million out of $856 million does not reflect a federal commitment to achieving the goals which it established and remain untouched in these bills before you except the date to achieve secondary treatment. Fishable/swimmable water quality will not be achieved in the Quinnipiac River, the Hockanum River, the Naugatuck River, Connecticut River, Thames River, New Haven Harbor, Bridgeport Harbor, Lower Housatonic River or Norwalk Harbor. The total cost of the needed projects cannot be borne alone by the municipalities or the State. The Clean Water Act's goals, the goals of the federal government must reflect its commitment. The people in Connecticut and the country cannot be lead to expect fishable/swimmable waters or zero discharge of pollutants will be achieved by 1983 with the proposed level of funding. They will not.

With specific regard to the proposed bills, I would make the following brief comments.

1. Eligibility - Combined Sewer Overflows must remain eligible. CSO problems alone presently prohibit the Connecticut River, the Thames River, New Haven Harbor, Bridgeport Harbor and Norwalk Harbor from meeting fishable-swimmable goals. Planning, and in some cases design, is complete for most of the problem areas and phased construction underway in others. These problems plague our urban centers and prohibit needed recreation and good water quality in those areas.

Eligibility of projects should be determined by the states based on water quality needs and priority.

2. Step I & II grants - Grants for planning and design should continue to be made. Funding of these steps allows a community to define and address its needs and allows it or the state to mandate the construction of needed facilities with or without funds. Facility planning is the only accurate mechanism to determine water pollution needs, costs and benefits and allows long term management of construction needs and funds. In small communities, it provides the mechanism to develop innovative and alternative disposal systems and local management and prevention schemes.

Planning for water pollution control and water quality management through the 201 process is as important to achieving and defining national goals as is construction.

3. Federal Grant Share - A reduced federal share will tend to insure high quality projects and maximum local involvement. The share should be reduced only by project category as determined by the States.

4. Allotment Formula - The allotment formula should be based on treatment facilities (secondary and AWT), interceptors, CSO, and, where appropriate for small communities, collectors and reflect the most current needs survey and population.

5. State Management Assistance Grants (205g) - The wording of the proposed bills would provide 1% of the sum of unexpended obligations and unobligated allotments available to the States as of the first day of fiscal year. The intent of the 1% of unexpended funds seems clear from the proposed wording in the bills. The intent in the use of unobligated amounts is not. The 1% is to be applied at the start of the fiscal year but historically no allotments have been made until several months into the fiscal year. Considering the proposed reductions in the level of program funding, the fast moving, well managed grant programs in states like Connecticut will obligate all its yearly allocation before the beginning of the next fiscal year therefore leaving no unobligated funds to be applied to the program grant. It should be clear that the intent is to apply the 1% to the upcoming allotment independent of the date. S 1274 provides for that situation in that it requires allotments after 1984 to be made before the beginning of the fiscal year.

Well managed fast moving states have backlogs of high priority projects and spend allocated funds quickly. Major treatment plants projects are very fast moving during the first construction year and easily reach the 50% payment point. The net result is that only 50% of the project funds will be unexpended at the end of the obligation year and the 1% will be applied to only half the project allocation. Efficiency is again penalized by reduction in program assistance.

Connecticut under proposed amendments could receive no grant based on unobligated funds and since one half of the obligated funds may be expended during that year the 1% based on unexpended funds would leave the state with only one quarter of its present program grant. In order to maintain program management, grant payments to municipalities in the last quarter of the FY would be delayed to assure minimum program assistance.

6. Priority List - We support assignment of highest priority to projects which result in water quality benefits and public health improvement.

7. Innovative and Alternatives and Rural Setasides. Such setasides should be optional. To utilize 3% reserve requires that 22.5% of all project dollars be I/A projects. This will never be achieved in an urban state like Connecticut and is not reasonable.

8. Compliance deadlines - S 1274 extends the requirements of 301(i) from July 1, 1983 to July 1, 1988. This is necessary but at the level of funding proposed will not be achieved either. This extension is not accompanied by other necessary goal changes.

9. Water Quality Management - S. 1274 provides for 0.5% of the construction grant allotment to be used for Water Quality Management planning. Connecticut supports this concept in general but offers these suggestions.

a. The $12,000,000 provided by this section should be added to the 106 program grant or go as a direct grant for water quality management planning. The $120,000 - $130,000 available to Connecticut under this concept would fund adequately our Water Quality Management Program.

B. Section 208 should be deleted from the act except for the Rural Clean Water Program and all planning requirements and programs incorporated in the provisions of 303(e) and the State should have full control over planning direction and needs and which planning agencies are to be involved. This action is recommended if funding is provided or not.

10. Engineers Treatment Works Warranty - This provision will raise project costs, reduce innovation and alternative designs and reduce competitive selection of equipment.

11. Water Quality Standards - Periodic review and update of water quality standards is necessary. The cycle of this review as states develop groundwater programs and standards will take more than two or even three years. Revisions to Water Quality Standards should be extended to 4 or 5 years to be consistent with other planning and needs assessments. Connecticut has begun adoption of TMDL's. It has taken us more than 2 years to develop and be confident with our methodology. To date, the system is being applied only on a case by case basis to new or expanding discharges. For those states who have not started or do not have adequate trained staff, the two years proposed by S 1274 will not be realistic and no significant progress will be attained.

I would like to thank you for this opportunity and appreciate this hearing being held in Rhode Island to let our local concerns be more easily expressed. Attached to my statement are documents which offer more detail on my discussion.

## ATTACHMENT I

The attached table shows Connecticut's income and proposed expenditures under the existing and proposed system. The tables show that in the short run Connecticut would receive more Section 205g funding under the proposed amendments assuming that 1% of unobligated funds is applied to the authorization because a significant unexpended balance will exist this October.

It is our understanding that EPA has testified that the proposed amendments to 205(g) will result in approximately the same total funding being available to the states. Their estimates are based on the following estimated expenditure rates.

| | Percent Obligated | | | | |
|---|---|---|---|---|---|
| | Obligation Year | 2nd Year | 3rd Year | 4th Year | 5th Year |
| EPA | 4% | 29% | 36% | 12% | 5% |
| Fast Moving States Estimate | 33% | 36% | 25% | 7% | |

Using historical expenditure rates, EPA's testimony is correct but eventually the well managed efficient states will be penalized. At the very least, the historical expenditure rate will increase with less funds available and more states taking a larger role in the management.

In summary, Connecticut receives more management funding in the short run from the proposed amendments but in the long run we will receive less than now based on 2% of $5 billion authorization. The level of staffing we have now can be reduced slightly with the proposed level of funding but our income under either system will not be sufficient to fund the program. We feel that leaving the 205(g) section the way it is and determining the management grant based on a 5 billion dollar authorization would be far superior to the proposals submitted, the states will be able plan staffing levels and budgets and will not be penalized for efficiency or rewarded for inefficiency.

## TABLE 1

### Anticipated 208(g) Expenditures and Incomes ($1,000)

| | FY 81 | FY 82 | FY 83 | FY 84 |
|---|---|---|---|---|
| Expenditures | 1,172 | 1,329 | 1,480 | 1,648 |
| INCOME* existing 205(g) program | 1,092 | - | 524 | 524 |
| INCOME*based on proposed amendments | 1,092 | - | 1,050 | 530 |
| INCOME** existing 205(g) program | 1,092 | 1,092 | 524 | 524 |
| INCOME** based proposed amendments | 1,092 | 1,400 | 1,050 | 780 |
| INCOME based on existing 205(g) program at 2% of $5 billion | 1,092 | 1,092 | 1,092 | 1,092 |

* 0 funding FY 82 $2.4 billion for FY 82 and FY 84

** $2.4 Billion for FY 82, FY 83, and FY 84

(assuming allocations are made by October 1 of Fiscal Year)

NOTE: $2,323,000 is available from FY 78, 79 and 80

## TABLE II

### Net Funds Available At End of Fiscal Year ($1,000)

| | FY 81 | FY 82 | FY 83 | FY 84 |
|---|---|---|---|---|
| Existing 205g No FY 82 funding | 2,243 | 914 | (42) | (1,166) |
| Proposed 205g No FY 82 Funding | 2,243 | 914 | 484 | (614) |
| Existing 205g FY 82 funding | 2,243 | 2,006 | 1,050 | (74) |
| Proposed 205g FY 82 funding | 2,243 | 2,314 | 1,884 | 766 |

# State of Connecticut

# Municipal Construction Grants Program

## 5 Year Planning Analysis Based on Various Funding Levels

A five year planning analysis has been made of the Connecticut Municipal Construction Grants Program based on five different funding levels. Attached are Tables 1 through 5 which identify projects likely to be funded under the different funding levels. These tables are based upon the following funding levels:

| | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 |
|---|---|---|---|---|---|
| Table 1 | $3.7B | $4.0B | $4.4B | $4.7B | $4.7B |
| Table 2 | $0 | $2.4B | $2.4B | $2.4B | $2.4B |
| Table 3 | $1.3B | $2.4B | $2.4B | $2.4B | $2.4B |
| Table 4 | $2.4B | $2.4B | $2.4B | $2.4B | $.24B |
| Table 5 | $3.4B | $3.4B | $3.4B | $3.4B | $3.4B |

Connecticut's share of the national appropriations above is 1.1 percent. The breakdown of Connecticut's share for each appropriation level is shown below:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| National Appropriation | $1.3B | $2.4B | $3.4B | $3.7B | $4.0B | $4.4B | $4.7B |
| Connecticut Allotment | $14.3M | $26.4M | $37.4M | $40.7M | $44.0M | $48.4M | $51.7M |
| - set asides | $1.9M | $3.4M | $4.9M | $5.3M | $4.8M | $6.3M | $6.7M |
| - general funds | $12.4M | $23.0M | $32.5M | $35.4M | $39.2M | $42.1M | $45.0M |

The set asides amount to thirteen percent of the allotment. Regardless of the funding level, the set asides for state management assistance grant (2%), costs increases (5%), small community grants (4%) and Step 1 reserves (2%) will be maintained. The remaining portion of the allotment then goes to funding general projects from the priority list.

It is obvious to see from Table 1 versus Table 2 the severe impact the Reagan budget analysis has on Connecticut municipalities versus the Carter budget analysis. With the Carter budget analysis, twenty nine municipalities would receive Step 3 construction grants. Of these twenty nine, eight would be classified as small communities and qualify for the small community set aside. With the Reagan budget analysis shown in Table 2, only six municipalities would receive Step 3 grants in the next five years.

The continuity of the Construction Grants Program is in serious jeopardy in Connecticut. There are thirteen major municipalities either in the facility planning or design stage for major treatment plant upgradings and expansions, yet under the Reagan budget analysis only four projects will be funded in the next five years. It is conceivable that with the funding level proposed by the administration that several of these major projects will not be funded until 1990 or later.

The same picture is apparent for the small community projects. Currently, in the facility planning stage are approximately seventeen municipalities which are investigating the most cost-effective and environmentally sound solution to their wastewater pollution projects. Under the Reagan budget analysis only two projects will be funded in five years. The remaining fifteen will be waiting a minimum of five years and many more than ten years to solve their respective problems.

Attached to this document is another titled "Wastewater Facilities Needs For the State of Connecticut 1981".

## TABLE 1

**Funding Level Carter Budget Analysis**

FY82 $3.7, FY83 $4.0, FY84 $4.4, FY85 $4.7 FY 86 $4.7

| | 1982 | | 1983 | | 1984 | | 1985 | | 1986 | |
|---|---|---|---|---|---|---|---|---|---|---|
| General Project | Grant Increase | $15M* | New Haven (phased) | $4.1M | Milford (phased) | $9.3M | Norwalk CSO (phased) | $2.4M | Seymour (phased) | $1.9M |
| | New Haven (phased) | $20.4M | Bristol | $22.5M | Danbury | $7.5M | Bridgeport CSO | $5M | Bridgeport CSO | $5M |
| | | | Milford (phased) | $11.6M | Wallingford | $14M | New Haven CSO | $5M | New Haven CSO | $5M |
| | | | | | Bridgeport CSO | $2M | MDC CSO | $5M | MDC CSO | $5M |
| | | | | | New Haven CSO | $2M | Waterbury | $8M | Norwich CSO | $5M |
| | | | | | MDC CSO | $2M | Manchester | $8.6M | Vernon | $4.2M |
| | | | | | New Haven CSO | $2.2M | Groton | $5.6M | Winchester | $6.0M |
| | | | | | Norwalk CSO (phased) | $3.0M | Seymour (phased) | $5.4M | Bethel | [illegible] |
| | | | | | | | | | Newtown | $5.0M |
| | | | | | | | | | Plymouth | $5.0M |
| | | | | | | | | | Middletown | $1.4M |
| Small Community Projects | Deep River | $1.0M | Brookfield (phased) | $1.8M | Brookfield | $.6M | Madison (phased) | $.5M | Old Saybrook | $1.5M |
| | Brookfield (phased) | $.6M | | | Clinton | $1.0M | Guilford | $.6M | Ledyard | $.6M |
| | | | | | Madison (phased) | $1.3M | Westbrook | $.9M | | |

*backlog of requested grant increases and increases in scope of May, 1981.

D

## Table 2

## Funding Level $0 FY82, $2.4B FY83 - 86

| | 1982 | 1983 | 1984 | 1985 | 1986 |
|---|---|---|---|---|---|
| General Projects | ——— | Grant Increases $15M* | New Haven (phased) $16.5M | Bristol (phased) $16M | Milford (phased) $13.9M |
| | ——— | New Haven (phased) $8M | Bristol (phased) $6.5M | Milford $7M | Danbury $7.7M |
| Small Community Projects. | ——— | Deep River $1.0M | Brookfield (phased) $1.0M | Brookfield (phased) $1.0M | Brookfield (phased) $1.0M |

*backlog of requested grant increases and increases in scope as of May, 1981.

## TABLE 3

## Funding Level $1.3B FY82, $2.4B FY83-86

| | 1982 | 1983 | 1984 | 1985 | 1986 |
|---|---|---|---|---|---|
| General Projects | Grant Increases $12.4M* | Grant Increases $ 2.6M*<br>New Haven (phased) $20.4M | New Haven (phased) $ 4.1M<br>Bristol (phased) $18.9M | Bristol (phased) $ 3.6M<br>Milford (phased) $19.4M | Milford (phased) $ 1.5M<br>Danbury $7.5M<br>Wallingford $14M |
| Small Community Projects. | Deep River (phased) $.6M | Deep River (phased) $.4M<br>Brookfield (phased) $.6M | Brookfield (phased) $1.0M | Brookfield (phased) $1.0M | Brookfield (phased) $.4M<br>Guilford - $.6M |

*backlog of requested grant increases and increase in scope as of May, 1981.

E 4

Funding Level $2.4B FY82, $2.4B FY83-86

| | 1982 | 1983 | 1984 | 1985 | 1986 |
|---|---|---|---|---|---|
| General Projects | Grant Increases $ 15M*<br>New Haven (phased) $8M | New Haven (phased) $ 16.5M<br>Bristol (phased) $6.5M | Bristol (phased) $16M<br>Milford (phased) $7M | Milford (phased) $ 13.9M<br>Danbury $7.5M<br>Wallingford (phased) $2.6M | Wallingford (phased) $11.4M<br>Bridgeport CSO $2M<br>New Haven CSO $2M<br>New Haven CSO $2.2M<br>Norwalk CSO $5.4M |
| Small Community Projects. | Deep River $1.0M | Brookfield (phased) $1.0M | Brookfield (phased) $1.0M | Brookfield (phased) $1.0M | Clinton $1.0M |

backlog of requested grant increases and increases in scope as of May, 1981

E 5

Funding Level $3.4 FY82, $3.4B FY82-86

| | 1982 | | 1983 | | 1984 | | 1985 | | 1986 | |
|---|---|---|---|---|---|---|---|---|---|---|
| General Project | Grant Increases | $15M* | New Haven (phased) | $7M | Milford (phased) | $17.9M | Wallingford (phased) | $6.9M | Manchester (phased) | $4.6M |
| | New Haven (phased) | $17.5M | Bristol | $22.5M | Danbury | $7.5M | Bridgeport CSO | $2M | Groton | $5.6M |
| | | | Milford (phased) | $3M | Wallingford (phased) | $7.1M | MDC CSO | $2M | Seymour | $7.3M |
| | | | | | | | New Haven CSO | $2M | Norwich | $4.3M |
| | | | | | | | New Haven CSO | $2.2M | Vernon | $4.2M |
| | | | | | | | Norwalk CSO | $5.4M | Winchester | $6.0M |
| | | | | | | | Waterbury | $8M | | |
| | | | | | | | Manchester (phased) | $4M | | |
| Small Community Projects | Deep River | $1.0M | Brookfield (phased) | $1.5M | Brookfield (phased) | $1.0M | Clinton | $1.0 | Madison (phased) | $.3M |
| | Brookfield (phased) | $.5M | | | Guilford | $.6M | Madison (phased) | $.5M | Old Saybrook | $1.2M |

*backlog of requested grant increases and increases in scope as of May, 1981.

The current allotment formula has Connecticut receiving approximately 1.10% of the national appropriation. Revisions to the allotment formula are being considered now based upon a new data base, the 1980 Needs Survey. The revised allotment formula for Connecticut would be approximatley 1.58%. This would result in a 44% increase in Connecticuts allotment and would mean that additional projects could be funded. Referring to the Reagan budget analysis in Table 2, the increased allotment based on 1.58% would allow the funding of six additional projects. The impact municipalities would likely be Wallingford, Norwalk, Waterbury, Manchester, Clinton and Guilford. Referring to Table 5, the increased allotment based on 1.58% would allow the funding of nine additional projects. The impacted municipalities would likely be Norwich, Bethel, Newtown, Plymouth, Middletown, Derby, Westbrook, Ledyard and North Branford.

### HEARING
### CONDUCTED BY THE
### SUBCOMMITTEE ON
### ENVIRONMENTAL POLLUTION ON
### THE AMENDMENTS TO THE FEDERAL
### WATER POLLUTION CONTROL ACT
### HONORABLE JOHN H. CHAFEE, CHAIRMAN
### RHODE ISLAND COMMUNITY COLLEGE
### WARWICK, RHODE ISLAND
### JUNE 29, 1981

### TESTIMONY OF
### ANTHONY D. CORTESE, Sc. D.
### COMMISSIONER, DEPARTMENT OF ENVIRONMENTAL QUALITY ENGINEERING
### COMMONWEALTH OF MASSACHUSETTS

Mr. Chairman, the Honorable John H. Chafee, Congressman from Rhode Island, and Members of the Sub-Committee, my name is Dr. Anthony D. Cortese, Commissioner of the Massachusetts Department of Environmental Quality Engineering.

I am pleased to appear before your distinguished Sub-committee today to testify on an important piece of legislation, Senate-1274. The subject of this bill is critical to the environmental future of our states and to the nation as a whole.

I want to commend your efforts and those of your sub-committee in initiating legislation to help simplify a complex and stringently regulated federal program which is in drastic need of administrative reform. Therefore, I wish to present my opinions on specific provisions of the bill:

1. Reduced Funding - This provision would reduce the Federal share from 75% to 65% after 9/30/81 and to 55% after 9/30/84 to allow the Federal government to fund more projects with the reduced appropriation. Nevertheless, it will not reduce the total cost of the projects. By streamlining the program and reducing the effects

of inflation we can truly make the Federal dollars go further and not just shift the burden to state and local government.

Therefore, I would like to recommend that Congress keep the federal share at 75% and require the Administrator to file a report to Congress, within six months, with specific recommendations for reducing the time required to complete a project by 30%. This reduction is critical in that the savings which can be realized by this time reduction will offset the amount of money which President Reagan proposes to cut.

2. Elimination of Step 1 and 2 Funding - The proposal should be changed in two ways to prevent disruption and accomplish its goal. First, the proposal should include clear language which would prevent EPA from making a community go back to facilities planning (Step 1) once it has completed the design phase (Step 2). Otherwise it could perpetuate the same delays that are inherent in the program today. Secondly, there should be a period of transition. This can best be accomplished by placing the restrictions on FY82 funds and not basing it on a calendar date. That would allow states to use FY81 funds to minimize any hardships created by the changes.

3. Funding of Combined Sewer Overflow (CSO) Treatment - We definitely support the continued funding of Combined Sewer Overflow (CSO) Treatment. In waterbodies such as Boston Harbor, the Merrimack River and the Connecticut River combined sewer overflows are currently the primary sources of pollution. Therefore, the amendments must be expanded to include rivers as well as bays and estuaries. We must support spending money to achieve the best water quality and public health improvement for the type of projects that give us the greatest environmental improvement for the least

dollars expended. Massachusetts in order to achieve its goals must have categorical and project eligibility discretion.

4. Innovative/Alternative Technology - The mandatory set-aside should be changed to a voluntary basis. This will allow for greater advancement of true I/A technologies without major concern for loss of set-aside funds. The decision as to whether or not a technology is considered alternative or innovative should be a state's decision and not EPA's.

5. Grant Management Assistance - 205(g) - In order for the states to continue adequate management of the construction grants program, sufficient funds must be provided by Congress. Under delegation, Massachusetts has developed a competent staff of well trained professional engineers and support personnel to effectively administer and manage this program. The momentum which Massachusetts has established in attacking its water pollution problems has to be maintained. We are concerned that under the Administration's proposal, sufficient monies will not be available for that purpose. We therefore solicit your support for state management assistance predicated upon 2% of the Congressional authorization.

In light of the current financial situation confronting the new Administration and the realization that the current construction grants program must be cut back to a manageable $20-$25 billion nationwide, all of us who are concerned with protecting the environment for the present and future generations must make every effort to assure that the limited funds available will be utilized in the most cost-effective manner for the protection and enhancement of our most valuable water resources.

For Massachusetts and other states, this can best be attained by allowing the states to assume a primacy role in deciding which type of future projects will be necessary to most effectively solve our many remaining water quality problems. Massachusetts, for example, has a number of combined sewer overflow treatment and replacement projects that when constructed will improve more miles of coastline and tributary rivers and streams than projects in the currently contemplated eligible Categories of I, II, and IVb (secondary treatment plants, advanced wastewater treatment plants, and interceptors).

In an era of financial crisis, we believe it is essential that the states retain the authority to determine what categories and what projects should receive construction grant funding with only minimal overviews from the Federal Government.

I believe that Massachusetts is ready, willing and able to further take on this role. I base this statement on the past successes which we have had in our environmental programs. For example, since 1972 Massachusetts has made dramatic strides in the restoration of our major rivers by eliminating health hazards and raw or inadequately treated sewage discharges. These improvements have been brought about principally through the construction of water pollution abatement facilities and appurtenant works. These facilities have reduced the daily pollutants loads on our rivers and streams by the following substantial amounts:

| | |
|---|---|
| - Biochemical Oxygen Demand (BOD) | - 236,106 pounds/day |
| - Suspended Solids | - 265,619 pounds/day |
| - Nutrients | - 8,812 pounds/day |

Thus in 1981 we will have eliminated over one half million pounds of pollutants per day from entering our waterways compared to ten years ago. Further, with the facilities presently under construction, this number will increase by 126,000 pounds per day in the near future. The true significance of these data relates to the benefits realized rather than the numbers themselves.

Ten years ago only 16% of the major river miles in Massachusetts were meeting standards and could support swimming and fishing. By 1980, that number rose to 45% and is expected to reach 60% by 1983. Water quality should continue to improve at a rate dependent upon the yearly allocation of federal construction grant funds available to our states. For example, an annual allocation of $2.4 billion through 1985 should increase this percentage to 70% within five years.

A second major issue which I would like to address is the often quoted General Accounting Office (GAO) Report entitled "Costly Wastewater Plants Fail To Perform As Expected". We disagree with the inference that municipal treatment plants simply do not perform adequately. First, the report states that, "For a 1-year period between 1978 and 1979, 87% of the plants in our sample violated the effluent discharge limits of their permits". We must realize that there is a list of 25 potential violations under the NPDES permit which are broken into major and minor categories. Therefore to classify a plant as non-complying since it "experienced at least one violation of any effluent discharge permit limit during the study period", is an obvious misrepresentation of a facility's performance. Secondly, the 15 plants which GAO chose for conducting an in depth review, were selected from listings of worst case situations prepared by EPA's Regional Office Enforcement Division Staffs. It seems rather unfair to utilize worst case projects when evaluating a total program's performance.

In Massachusetts, approximately 75% of our treatment plants are in basic compliance with their NPDES effluent limitations. We acknowledge that within the remaining 25% of the plants which are at times in non-compliance, there are some which are significant violators. However, we are dealing with this difficult situation by providing:

- Operator training programs
- Technical assistance to treatment plant operators
- More detailed technical review of treatment plant design plans/specifications
- State reimbursement to communities for certain maintenance costs and limited state grants for operational deficiencies
- A mandatory waste treatment plant operator certification program.

I realize that the principal intent of this hearing is not to submit testimony on the (GAO) Report. However, I felt that the misconceptions and inferences associated with that report must be dispelled. The Congress and its constituents must be presented with an accurate portrayal of the strengths and weaknesses of the construction grants program so that knowledgeable decisions can be made concerning changes to the Federal Clean Water Act.

In conclusion, it cannot be disputed that the Federal Water Pollution Control Act requires amendments to alter the current program. As well as regulatory adjustments to improve and streamline administration of it by federal and state governments.

Water quality problems vary nationwide. If we are to avoid the costly delays and increased expenses by federal intervention, the decision making and implementation authority should be delegated to the states in order to make this a workable program.

Massachusetts, as well as most states, is prepared to do this. We welcome appropriate overviews from EPA, Congress, the Office of Management and Budget, the Administration and others. However, it is time that the states have a direct hand in shaping their futures in the most cost-effective and environmentally sound basis as possible.

# TESTIMONY PRESENTED BY STEPHEN OLSEN
# BEFORE THE SENATE SUBCOMMITTEE ON THE ENVIRONMENT AND PUBLIC WORKS
# ON PROPOSED AMENDMENTS TO THE CLEAN WATER ACT
WARWICK, RHODE ISLAND, JUNE 29, 1981

My name is Stephen Olsen. I am the Director of the Coastal Resources Center at the URI Graduate School of Oceanography and Chairman of the recently formed URI Advisory Group to the Narragansett Bay Water Quality District Commission. The Advisory Group is made up of members of the research community at the School of Oceanography and the Department of Civil Engineering. We will be attempting to assist the Commission in identifying the likely effects upon the upper Narragansett Bay ecosystem of various modifications to the Providence sewer system. This morning I would like to comment on three topics that are relevant to the proposed amendments to the Clean Water Act. These are:

1. The critical importance of the effluents from combined sewer overflows to the present pollution of the Bay;
2. The enormous impact on the Bay ecosystem of municipal sewerage and urban runoff that enters the Providence River; and
3. The need for taking a holistic view of the pollution problem and setting priorities for improvements to the sewer system in terms of expected improvements to the quality of Bay waters.

Mr. Don Robadue at the Center is presently completing a review of available estimates of the annual inputs, in terms of five-day Biological Oxygen Demand ($BOD_5$) and total suspended solids (TSS), to the Providence River from the three municipal sewage treatment plants and the combined sewer overflows (CSOs). Until very recently there was no data on the pollution flowing into the river from the CSO·. Using literature values for expected loadings for various categories of runoff the 208 Program (1977) estimated that all CSOs contribute some 10 percent of the total BOD and TSS loading to the river. In 1979 the Anderson-Nichols Facilities Plan for the Providence Sewer System increased the estimate for BOD, after some sampling, by a factor of four (from 2.3 to 9.9 million lbs/yr). In February of this year the firm Castellucci and Galli measured the flow in a single CSO, number 002, which is adjacent to the Fields Pt. treatment plant. If one extrapolates from their data a conservative estimate for the annual loading from this single facility is 4.3 million lbs. of BOD and 8.3 million lbs. of TSS. This is virtually all due to the dry weather flow of raw sewage and is equivalent to half the total loading from all three sewage treatment plants in 1980. CSO 002 is known to be the worst offender among the CSOs. There are, however, a total of 65 CSOs that discharge to the river from Providence and an additional 30 or more elsewhere along the river. Several of these are known to produce a dry weather flow to the river. The flow from 002, if we accept the present preliminary estimate, is about equal to the expected reduction in both BOD and TSS loading from the Providence treatment plant if that facility is completely rebuilt. If this and other CSOs in the area worked as designed, there would be no dry weather flow from CSOs to the river.

Senator Chafee's amendments provide some federal monies for CSOs. This is clearly a step in the right direction; I only hope it is enough and that some of the money suggested for a CSO discretionary fund will filter down to Rhode Island. I would also like to note that neither the President's version of the amendments nor Senator Chafee's provid federal monies for sewer rehabilitation and correction of infiltration/inflow problems. These are critical issues when considering the problems of the Providence sewer system. I will risk the sweeping statement that the single major reason for our present predicament with the Providence sewer system is a long term lack of maintenance and rehabilitation when and where rebuilding has been needed. An effective program to address water quality concerns steming from municipal sewage treatment and urban runoff must highlight an energetic maintenance effort. Recognition of this is unfortunately absent from the proposed amendments.

Much has been said about the overriding importance of a clean and healthy Narragansett Bay to the state of Rhode Island and the pervasive ill effects of the pollution that flows into the Providence River. In 1979 the Center undertook for the EPA a review of all available information on the pollution of Upper Narragansett Bay. We found that the Upper Bay is the major source of all pollutants in the Bay. Gradients may be seen from the Providence River to the Bay's mouth for bacteria, organics, nutrients, most metals, and petroleum hydrocarbons. These gradients are present in both the water column and in the sediments. The effects of this pollution are enormous. The Bay's most productive quahog grounds are off limits to the state's growing numbers of shellfishermen. Because the bottom sediments are so heavily polluted it has not been possible to find a disposal site for Upper Bay dredge spoils. As a result dredging has been at a virtual standstill for a decade and this has had a severe adverse impact on the growth of the shipping in Providence Harbor. The Upper Bay's waters are malodorous and unfit for fishing or swimming. This is no doubt one reason for a decline in real estate values in some Upper Bay waterfront communities. The impacts of the pollution on the ecosystem as a whole are poorly understood. We do know that oxygen levels are frequently very low during the summer in the Providence River and that quahogs in some areas are contaminated with petroleum and other substances. The build up of pollutants in the sediments is a cumulative process and cause for great concern. Recent research at the Marine Ecosystems Research Laboratory at URI has demonstrated that very low chronic concentrations of petroleum hydrocarbons (100 to 200 ppb) in the water have devastating effects on zooplankton and the bottom community. Concentrations similar to those tested are present in the Providence River and the impact on fish eggs, larvae and shellfish must be real. Here again, the importance of CSO's must be stressed. We do not expect that rebuilding the Providence sewage treatment will bring a major improvement in the levels of coliform bacteria in the Bay. The plant's chlorination process has been relatively good over the past years. The major source for coliforms is probably the CSOs. We all know that it is principally on the basis of coliform levels that shellfishing grounds are opened or closed and we must therefore look to work on the CSOs if we are to hope for regained access to shellfishing areas.

I heartily endorse the proposal to evaluate proposed projects relating to sewage treatment in terms of the expected benefits that will accrue to the quality of the receiving waters. I find it amazing that no real effort of this kind has as yet been attempted for the Providence River despite the millions that have already been spent for planning and designing new treatment facilities. Intelligent, cost-effective regulation of pollutants and the funding of pollution abatement projects must, in my view, be grounded on an appreciation of the total system that is being affected.

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Executive Chamber, City of Providence, Rhode Island
Vincent A. Cianci, Jr.
MAYOR

# TESTIMONY BY MAYOR VINCENT A. CIANCI, JR.
## MAYOR OF THE CITY OF PROVIDENCE

I deeply appreciate this opportunity, Senator Chafee, to testify before you on the effects that I believe will be realized if your amendments to the Clean Water Act are passed. To ensure that our comments would be as inclusive as possible of the total community's reaction to these amendments, my staff and I have consulted with appropriate representatives of the Department of Planning and Urban Development of the City of Providence, the Coalition of Coastal Communities of the State of Rhode Island, the Citizens Advisory Committee of the Providence Water Pollution Abatement Program, as well as being mindful of the interest in these amendments voiced by representatives of Save the Bay, and the Conservation Foundation.

It would appear that there is widespread support for these amendments from professional engineers working with all phases of rehabilitation, renovation, or reconstruction of facilities for clean water, as well as from citizens interested in water quality improvements for a host of reasons. Generally, these amendments were thought to be a more conscientious effort on your part to make the new administration more responsible to the needs of many communities and states who are attempting to renovate or rehabilitate much older facilities, and to construct new ones in light of increasing concern for higher minimal standards for water quality. While we recognize that a sharp reduction in federal allocation of funding for such projects is the intent of the new administration, we are also mindful of the fact that many billions of dollars may have been authorized in the past, but only a fairly small percentage of monies authorized were ever allocated.

I am especially heartened as the Mayor of the City of Providence to see that your amendments specifically underline the need for EPA administrators to deal with the problem of combined storm and sanitary sewer overflows into ecologically critical bays and estuaries that will not otherwise be cleaned up by traditional treatment. The significant actions that the citizens of the City of Providence have taken in the last several years in my administration to substantially improve the Providence Sewage Treatment Plant, and to do so, I might add, without help from other entities, has been of major concern to us, and we welcome your amendments that emphasize water quality improvement programs for wastewater treatment facilities.

In a similar manner, we applaud your wisdom in setting 1980 population statistics as the determinant for establishing the size and capacity of funded facilities. While we are mindful of the possible changes in demographics in states, and in communities within those states, that are part of the dynamics of a modern American society, we share your belief that trying to project population statistics on the one hand, or future needs for various communities or areas, is both wasteful and costly, and that funding should consider the present needs and not what might or ought to be.

The amendment that stresses greater accountability and responsibility by those who design and construct these facilities is most welcome. While it has been the experience of the City of Providence that those engineering and consultant firms we have utilized have accepted their responsibilities for efficiency without hesitation, the stipulation that is made in your amendment for a time period to be included is most appropriate. While it is always the intention of the design engineer to provide the best possible service for whatever facility is constructed, the warranty conditions that you underline now have the binding principle that will add immeasurably to the obligations of the engineer or the engineering firm.

Furthermore, as the Mayor of the northeastern city where facilities for wastewater treatment were built in the 19th century, I am well aware of the difficulty that my fellow mayors in this region face in their conscientious effort to rehabilitate century-old facilities in order to be in compliance with EPA time guidelines set for 1983. In many cases, their willingness to do their utmost to comply with these time parameters has been frustrated by the condition of the plants that they accepted the responsibility for. Your awareness of the time constraints under which many of us are operating permits us to continue to fulfill our responsibilities in a more reasonable period of time.

Finally, we are in full agreement with your emphasis on this entire program being perceived as an environmental protection project, which emphasizes water quality and water cleanup, rather than as a federal public works project. This water treatment program, which may well be second only to the interstate highway program in non-military funding, has suffered in the past because in many ways its emphasis has appeared to be toward massive investment and make-work projects rather that the improvement of the environment. In underlining the reimbursing of funds for planning only after programs have become accepted and are begun, you establish a set of guidelines that may well remove the hastily conceived and the poorly planned that may often be submitted without most thoughtful consideration.

Senator Chafee, I heartily endorse these amendments that you have made to the Clean Water Act for they clearly express our mutual concern for the future of the environment both in Narragansett Bay and throughout the country. I would hope that your distinguished colleagues in the Congress would support this thoughtful effort you have made to enhance the quality of our lives. Thank you!

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STATEMENT OF
THE HONORABLE CLAUDINE C. SCHNEIDER
U.S. HOUSE OF REPRESENTATIVES
2ND DISTRICT/RHODE ISLAND
BEFORE THE
U.S. SENATE COMMITTEE ON ENVIRONMENT
AND PUBLIC WORKS
ON CLEAN WATER ACT AMENDMENTS
MONDAY JUNE 29, 1981

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

I DEEPLY REGRET MY BEING UNABLE TO APPEAR BEFORE YOU TODAY BUT A PREVIOUSLY SCHEDULED MEETING IN WASHINGTON NECESSITATED MY ABSENCE. I WOULD, HOWEVER, LIKE MY STATEMENT TO BE ENTERED INTO THE PERMANENT RECORD OF THESE HEARINGS.

I WOULD LIKE TO EXTEND MY PRAISE TO CHAIRMAN CHAFEE, AND HIS RESPECTED COLLEAGUES ON THE ENVIRONMENTAL POLLUTION AND RESOURCE PROTECTION SUBCOMMITTEE IN THE US SENATE, FOR THIS INITIATIVE TO DEVELOP AN IMAGINATIVE PLAN WHICH WILL PROVIDE FOR BOTH THE IMPROVEMENT OF WATER QUALITY WHILE UTILIZING SCARCE FEDERAL DOLLARS IN A COST EFFECTIVE MANNER.

AS PROPOSED IN S1274, THE AMENDMENTS TO THE FEDERAL WATER POLLUTION CONTROL ACT WILL MAINTAIN THE INTEGRITY OF THE INITIAL ACT. THE PROPOSED CHANGES WILL INVOLVE THE TIGHTENING OF FEDERAL FUNDING ELGIBILITY REQUIREMENTS THAT WILL RESULT IN TAXPAYERS DOLLARS BEING SPENT IN A SOUND MANNER. BOTH OF THESE GOALS CAN AND SHOULD BE ACHIEVED.

I AM DELIGHTED THAT SENATOR CHAFEE'S AMENDMENTS PROVIDE FOR GREATER FLEXIBILITY IN ADMINISTRATIVE DECISION-MAKING. THIS FLEXIBILITY SHOULD PROMOTE SOLUTIONS TO WATER POLLUTION PROBLEMS THAT ADDRESS THE PROBLEM IN THE BEST POSSIBLE MANNER. FOR EXAMPLE, THE INCLUSION OF COMBINED SEWER OVERFLOWS AS ELIGIBLE FOR FEDERAL FUNDING WILL CERTAINLY ALLOW PROJECTS SUCH AS THE AGING AND OBSOLETE WASTEWATER TREATMENT SYSTEM WHICH SERVES THE PROVIDENCE METROPOLITAN AREA TO ACHIEVE COMPLIANCE WITH FEDERAL ENVIRONMENTAL STANDARDS.

THE PROHIBITION OF COMBINED SEWER OVERFLOWS FROM FUNDING ELIGIBILITY AS CONTAINED IN S975 WOULD UNNECCESSARILY IMPEDE EFFECTIVE SOLUTIONS TO THE REHABILITATION OF THE PROVIDENCE SYSTEM AND THE CORRECTION OF ITS 100 YEAR OLD DEFICIENCIES, AS WELL AS, OTHER SIMILAR AGED SYSTEMS IN THE NORTHEAST.

I AM ALSO PLEASED THAT A PROVISION TO HOLD ENGINEERS RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE TREATMENT FACILITIES TO REMAIN ON THE JOB AFTER THE END OF CONSTRUCTION AND BE LIABLE FOR THE PLANTS MEETING THE SPECIFICATIONS FOR WHICH THEY WERE DESIGNED HAS BEEN INCLUDED IN THESE AMENBMENTS. THIS ACCOUNTABILITY WILL PROMOTE ULTIMATELY BOTH BETTER DESIGN AND OPERATIONS OF WASTEWATER TREATMENT FACILITIES.

I AM CERTAIN THAT ALL OF THE ENGINEERS IN THIS ROOM TODAY TAKE PRIDE IN THEIR WORK AND GIVE THE NECESSARY THOUGHTFUL ATTENTION TO DETAIL TO ACHIEVE A SMOOOTHLY FUNCTIONING WASTEWATER TREATMENT FACILITY. HOWEVER, IF MISTAKES ARE MADE I WOULD THINK IT IS APPROPRIATE THAT THOSE RESPONSIBLE SHOULD BE MADE TO SHOULDER THE FISCAL BURDEN THAT MAY RESULT. AS TAXPAYERS THEMSELVES, ENGINEERS MUST AGREE THAT MUNICIPALITIES, STATES, AND THE FEDERAL GOVERNMENT CAN NO LONGER AFFORD TO CORRECT THE FACILITIES WHICH FAIL TO LIVE UP TO THEIR PROMISES.

IN THE ALMOST TEN YEARS SINCE THE IMPLEMENTATION OF THE FEDERAL WATER POLLUTION CONTROL ACT OF 1972, GREAT PROGRESS HAS BEEN MADE TOWARDS IMPROVING THE OVERALL WATER QUALITY OF OUR NATION'S ABUNDANT WATER RESOURCES. WE, AS A NATION, HAVE ACHIEVED THE FURTHERANCE OF THE PROTECTION OF PUBLIC HEALTH, THE PRESERVATION OF OUR IMPORTANT FISHERY RESOURCES, AND THE MAINTENANCE OF THE RECREATIONAL AND AESTHETIC ASSETS OF OUR WATERWAYS. YET, MUCH REMAINS TO BE DONE TO ACHIEVE THE FISHABLE AND SWIMMABLE GOALS AS PROPOSED IN THE INITIAL ACT.

I AM IN FAVOR OF THE PROVISION INCLUDED IN S1274 FOR A REVIEW OF THE PROGRESS MADE TOWARDS COMPLETING THE WASTEWATER TREATMENT CONSTRUCTION PROGRAM WITHIN EIGHTEEN MONTHS FROM THE PASSAGE OF THESE AMENDMENTS. SUCH A DEADLINE WILL PROVIDE THE NECESSARY IMPETUS TO DELAY NO LONGER WORK TOWARDS ACHIEVING OUR WATER QUALITY IMPROVEMENT GOALS. WITH FEDERAL CONTRIBUTIONS, THE NECESSARY PLANNING AND CONSTRUCTION OF IMPORTANT WASTEWATER TREATMENT FACILITIES CAN BE ACHIEVED AND IMPROVED WATER QUALITY WILL RESULT.

IN CONCLUSION, I BELIEVE IT IS VITAL THAT WE UPHOLD OUR GOALS TO IMPROVE WATER QUALITY THROUGH THIS DECADE AND INTO THE FUTURE. THE PROTECTION OF OUR WATERWAYS IS OUR RESPONSIBILITY FOR OUR CHILDREN, AND OUR CHILDREN'S CHILDREN. I BELIEVE THE AMENDMENTS AS PROPOSED IN S1274 WILL ALLOW US TO CONTINUE TO MEET THIS RESPONSIBILITY. I URGE THAT THESE RESPONSIBLE PROVISIONS ARE PASSED AND INCORPORATED INTO THE CLEAN WATER ACT.

THANK YOU, MR. CHAIRMAN, THANK YOU MEMBERS OF THE COMMITTEE.

Narragansett Bay Water Quality Management District Commission
57 Eddy Street, Providence, Rhode Island 02903

STATEMENT

BY

ERIC R. JANKEL, EXECUTIVE DIRECTOR

NARRAGANSETT BAY WATER QUALITY MANAGEMENT DISTRICT COMMISSION

BEFORE THE

SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION,

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,

UNITED STATES SENATE

WARWICK, RHODE ISLAND

JUNE 29, 1981

It is a pleasure to appear before your Subcommittee, Senator Chafee. As you know, I am here on behalf of The Narragansett Bay Commission. The Chairman has asked me to specifically thank you for holding this hearing in Rhode Island. As The Commission prepares to assume the management of the Providence-owned metropolitan sewer system nothing is more critical than the continuation of a Federally-funded construction grants program. I think that all Rhode Islanders who value Narragansett Bay and recognize the extent to which this glorious natural resource has been degraded and polluted by the Providence sewer system, appreciate the fact that you, personally, as Chairman of the Subcommittee, have responded to President Reagan's call for reform to this program. Appropriations in Fiscal Year '82 are vital to the Commission's plans. By holding these hearings now and by moving amendments to the floor of Congress this year we hope you are able to preserve continuity in this important program.

AS YOU KNOW, THE COMMISSION WAS CREATED AS A RESULT OF YEARS OF LITIGATION AGAINST THE CITY OF PROVIDENCE BECAUSE OF UNNECESSARY POLLUTION OF THE BAY AND AFTER GOVERNOR GARRAHY'S SEWAGE TASK FORCE STUDIED, AND ANALYZED ALL OF THE COMPLEX FINANCIAL AND TECHNICAL ASPECTS OF THE OPERATION OF THE METROPOLITAN SEWER SYSTEM.

THE TASK FORCE CONCLUDED THAT:

1. THE PROVIDENCE SEWER SYSTEM WAS THE PRIMARY SOURCE OF POLLUTION TO NARRAGANSETT BAY
2. THE CITY OF PROVIDENCE, WITH ITS DECLINING POPULATION, SHRINKING TAX BASE, AND FISCAL DIFFICULTIES COULD NOT GENERATE ENOUGH MONEY TO FINANCE ITS SHARE OF THE NECESSARY IMPROVEMENTS TO THE SYSTEM.
3. THE LACK OF CONSISTANT AND SOUND MANAGEMENT PRACTICES HAVE LED TO AN UNPRECENDENTED STATE OF DISREPAIR.

Nothing has changed to alter any of these conclusions. The wonderful rivers which weave their way through the neighborhoods of the Capitol City are at this moment open sewers due to tide gates which do not function because they have not been maintained. Twice a day, with each high tide, millions of gallons of salt water flow into the sewer system which disrupts the biological treatment process at the Fields Point Plant. Every hour of every day, shellfish are exposed to toxic metals and other pollutants reducing their value as a natural resource and economically restricting a vital home-industry.

I have brought some photographs which graphically illustrate the state of disrepair, and I have a set of these photos for your use Senator.

Subsequent to the Task Force recommendations, the Governor submitted legislation and the General Assembly enacted a bill creating the Narragansett Bay Commission. This law mandates that the Commission takeover operation and management of this vital public service from the City. The bill called for an unprecedented bond referendum in the amount of $87.7 million dollars. The people of

RHODEISLAND APPROVED THE BOND ISSUE ON NOVEMBER 4, 1980, AND THE COMMISSION IS NOW NEGOTIATING WITH THE CITY OF PROVIDENCE FOR TRANSFER OF FACILITIES AND OPERATIONS. WE HOPE TO HAVE AN AGREEEMENT WITH THE MAYOR IN EARLY JULY SO THAT WE CAN CLOSE ON THE TRANSACTION NOVEMBER 2, 1981, WITHIN ONE YEAR OF THE MANDATE OF THE PEOPLE OF RHODE ISLAND.

SENATOR, THE TASK FORCE RECOMMNEDED THAT A DISTRICT COMMISSION BE FORMED, AS THIS SEWER SYSTEM SERVES THE PEOPLE OF JOHNSTON, NORTH PROVIDENCE AND PORTIONS OF CRANSTON AND LINCOLN AS WELL AS PROVIDENCE. IT IS A SINGLE PURPOSE AGENCY, PATTERNED AFTER MANY SUCH DISTRICT COMMISSIONS WHICH HAVE BEEN SUCCESSFUL AT OPERATING LARGE URBAN SEWER SYSTEMS ELSEWHERE IN THE UNITED STATES. THIS COMMISSION WILL OPERATE, MAINTAIN AND IMPROVE THE SYSTEM FOR THE BENEFIT OF THE USERS. IN DOING SO, THE COMMISSION WILL OPERATE UNDER FEDERAL AND STATE POLLUTION STANDARDS

AND THEREBY BRING TO AN END A DECADE OR MORE OF NEEDLESS POLLUTION TO NARRAGANSETT BAY

THE COMMISSION RECOGNIZES THAT TOTAL INVESTMENT IN THE UNITED STATES FOR PUBLIC WORKS FACILITIES IS ON THE DECLINE. FROM $38.6 BILLION IN 1965, 4.1% OF GNP TO $31.0 BILLION IN 1977, 2.3% OF GNP; A 44% DECLINE. THE NEED IS SELF-EVIDENT - $25 BILLION FROM 1981 TO 1986 FOR WASTE WATER TREATMENT FACILITIES ALONE. IT IS CLEAR THAT THE FEDERAL GOVERNMENT CAN NOT AND WILL NOT MEET THIS TOTAL NEED. IT GOES WITHOUT SAYING THAT OUR INFRASTRUCTURE MUST BE MAINTAINED FOR AN ECONOMY AND A SOCIETY TO EXIST.

TODAY, I WOULD LIKE TO FOCUS SPECIFICALLY ON ONE PROVISION OF THE AMENDMENTS, COMBINED SEWER OVERFLOWS, AND I WOULD LIKE TO SEEK A CLARIFICATION ON ONE OTHER PROVISION, THE CUT-OFF DATE FOR STEP TWO APPROVAL.

I WOULD LIKE TO STRESS THE IMPORTANCE OF MITIGATING

THE COMBINED SEWER OVERFLOW (CSO) SOURCE OF POLLUTION. AS YOU KNOW, THE PROVIDENCE SYSTEM, BUILT AT THE TURN OF THE CENTURY IN A HILLY TERRAIN WITH ITS LOWEST AREAS IN A TIDAL ZONE, IS LIKE MANY OTHER MATURE, COASTAL AMERICAN CITIES. THE SANITARY OR DOMESTIC SEWAGE IS COMBINED IN THE SAME PIPES WITH STORM WATER RUN-OFF. WHEN IT RAINS, AS IT DOES ABOUT 125 TIMES A YEAR HERE, THE SYSTEM IS DESIGNED TO DISCHARGE THE OVERFLOW INTO ONE OF OUR RIVERS. IN 1874, WHEN THIS SYSTEM WAS DESIGNED, IT WAS AN ENGINEERING MARVEL. BUT THAT WAS BEFORE DETERGENTS, GARBAGE DISPOSALS, MASSIVE PARKING LOTS, CRANKCASE OIL AND TOXIC METALS WERE COMMONPLACE.

IT SEEMS TO ME THAT IT IS FAIR FOR CONGRESS TO ASK IF MITIGATION OF CSO POLLUTION PRESENTS A NATIONAL NEED. LET ME ATTEMPT TO ADDRESS THIS POINT. THE PEOPLE OF SEATTLE, SAN FRANCISCO, BOSTON, AND PROVIDENCE SHARE A COMMON BOND.

They all live on Bays or Estuaries and their sewer systems all have overflows into these waters. Further it is clear that Puget Sound, San Francisco Bay, Massachusetts Bay, and Narragansett Bay are National resources and areas of special biological significance. These bodies of water link our in-land rivers to the oceans and thereby provide an area for the mixing of salt and fresh water. This mixing phenomena combined with mild water temperature and shallow shoals provides a special climate for breeding and a unique area for many species of marine life to exist. It is a delicate and sensitive zone.

We can see in our Narragansett Bay, the effects of one hundred years of industrial activity. Native

SPECIES OF FIN FISH AND SHELLFISH, ONCE ABUNDANT ARE NOW GONE OR DIMINISHED. LEVELS OF PRODUCTION IN OUR SHELLFISH INDUSTRY ARE DECLINING. IN 1975, THE BAY WAS CLOSED TO SHELLFISHING 55% OF THE TIME - IN 1978 74% OF THE TIME. MORE AND MORE OF THE BAY IS SUBJECT TO CLOSURE.

DETERMINATION OF THE NATIONAL NEED IS NOT A SIMPLE ADDITION OF LOCAL NEEDS. SPECIAL AREAS, SUCH AS TONGASS IN ALASKA, YOSEMITE IN CALIFORNIA, AND THE EVERGLADES IN FLORIDA, RECEIVE SPECIAL ATTENTION FROM OUR FEDERAL GOVERNMENT BECAUSE THEY ARE GIFTS OF NATURE; INHERITED ONE GENERATION FROM THE NEXT, TIMELESS STATEMENTS AS TO THE WONDER AND BEAUTY OF LIFE. SO TOO ARE THE BAYS AND ESTUARIES OF OUR CONTINENT. THOUGH THEY ARE SUBMERGED AND THEREFORE INVISIBLE TO OUR EYE, THEY SHOULD NOT BE ABUSED AND DISCARDED AS MARINE LANDFILLS. PARTICULARLY, WHEN THE TECHNOLOGY AND CAPABILITY EXISTS TO REDUCE THE LEVELS OF POLLUTION THEY RECIEVE. WE CAN, AND WILL

CLEAN UP NARRAGANSETT BAY AND THE PROVIDENCE RIVER AND ITS TRIBUTARIES. HOWEVER, THE FEDERAL GOVERNMENT SHOULD AND MUST BE A PARTNER IN THIS EFFORT.

CONSIDER FOR A MOMENT, HOW MUCH POLLUTION THE PROVIDENCE CSO CONTRIBUTES TO THE BAY.

IN 1977 ANDERSON NICHOLS REPORTED THAT THE CSO SYSTEM IN PROVIDENCE, WHEN MEASURED FOR BOD LOAD AND TOTAL SUSPENDED SOLIDS, WAS AMONG THE WORST IN THE NATION, PROVIDING 2.5 - 480 MG/LITER BOD AND 12 - 829 MG/LITER TSS. MORE RECENT ANALYSES ARE EVEN MORE DISCOURAGING.

AT THIS MOMENT, THERE IS A DRY WEATHER FLOW OF 8 MILLION GALLONS A DAY AT CSO 002 AT FIELDS POINT. THIS DRY WEATHER FLOW IS DUE TO PROBLMES ALONG THE SOUTH PROVIDENCE INTERCEPTOR, BUT IT WILL GIVE YOU A FEELING FOR WHAT HAPPENS WHEN IT RAINS. THE MOST RECENT ESTIMATES SHOW THAT 4.3 MILLION LBS OF BOD

AND 8.3 MILLION LBS OF TSS ARE DISCHARGED AT 002. THE THREE TREATMENT PLANTS IN THE UPPER BAY, FIELDS POINT, BVDC, AND EAST PROVIDENCE DISCHARGE 9.4 MILLION LBS BOD AND 16.5 MILLION LBS OF TSS. ONE CSO, OF 65 IN THE PROVIDENCE SYSTEM, PROVIDES FIFTY PERCENT OF THE AMOUNT OF POLLUTANTS AS DO THE THREE TREATMENT PLANTS TOGETHER.

CSO 045 ON THE WOONASQUATUCKET RIVER, WITHIN SITE OF THE STATE HOUSE, COULD DISCHARGE UP TO 372 MILLION GALLONS OF FLOW A DAY FROM 1,136 ACRES OF DRAINAGE AREA. WASTES FROM HOMES, SCHOOLS, HOSPITALS, LIGHT AND HEAVY INDUSTRY AND RESTAURANTS STREAMS INTO THE RIVER WHEN IT RAINS. THE WASTE IS THEN TRANSPORTATED BY TIDE AND RIVER FLOW THROUGH THE CENTRAL BUSINESS DISTRICT OF PROVIDENCE AND INTO THE BAY.

THE COMMISION INTENDS TO EXPLORE AND EMPLOY EVERY AVAILABLE TECHNIQUE TO REDUCE, MINIMIZE, AND ELIMINATE THIS SOURCE OF POLLUTION:

- REPAIR TIDE GATES AND SLOTS
- STREET CLEANING
- IN-LINE STORAGE
- OFF-LINE STORAGE
- SELECTIVE SEPARATION OF STORM AND SANITARY
- TREATMENT WHERE POSSIBLE

SENATOR, AS YOU WELL KNOW, THE UPPER REACHES OF THE BAY ARE ESPECIALLY SENSITIVE. YOUR AMENDMENT RECOGNIZES THE SPECIAL NATURE OF THESE AREAS. THE COMMISSION WOULD LIKE TO FULLY SUPPORT IT BUT WE HAVE THE FOLLOWING QUESTIONS AND RESERVATIONS:

A. WILL A TWO HUNDRED MILLION DOLLAR AUTHORIZATION MEAN A TWO HUNDRED MILLION DOLLAR ANNUAL APPROPRIATION ?

B. IF THE NATIONAL NEED FOR CSO IS 37 BILLION, CAN RHODE ISLAND EXPECT TO GET A FAIR DEAL FROM EPA IN A DISCRETIONARY PROGRAM.

C. WILL MR. STOCKMAN AND MS. GORSUCH PROMULGATE THE NECESSARY RULES AND REGULATIONS AND MAKE THE PROGRAM AVAILABLE ? WHEN WILL WE SEE THE FIRST AVAILABLE FUNDS ? AS I RECALL, IT WAS PRESIDENT NIXON WHO IMPOUNDED THE FUNDS IN THE CONSTRUCTION GRANTS PROGRAM.

IT IS IRONIC THAT THE REAGAN ADMINISTRATION SAYS THAT A REFORMED CONSTRUCTION GRANTS PROGRAM WILL BENEFIT

OLDER URBAN AREAS AND THEN THEY PROPOSE TO DELETE FROM ELIGIBILITY A CRITICAL COMPONENT OF THE URBAN NEED.

IN 1979, CSO NEEDS FOR THE DISTRICT WERE ESTIMATED AT 155 MILLION DOLLARS. IT MAY ACTUALLY BE MORE OR IT MAY BE LESS, BUT I WOULD ASK THAT YOU CONSIDER RESTORING CSO AS A 201 ELIGIBLE OR GIVE THE STATE SOME DISCRETION TO USE ITS ALLOCATION FOR CSO WORK IF THE WATER QUALITY BENEFITS THAT YOUR AMENDMENTS ATTATCH TO STATE PRIORITY SETTING CAN BE ESTABLISHED. ALTERNATIVELY, YOU MAY WANT GIVE STATES WITH CSO PROBLEMS A SPECIAL ALLOCATION ABOVE THE STATE FORMULA FOR A SPECIFIC PERIOD OF TIME, SAY TEN YEARS.

ONE POINT THAT I WOLD LIKE TO CLARIFY WITH YOU TODAY. IT IS CLEAR THAT THESTEP TWO DESIGN FOR THE FIELDS POINT PLANT WILL NOT BE COMPLETED AND APPROVED BY EPA ON DECEMBER 31ST, 1981. WILL THIS PORTION OF THE PROJECT THEN BE SUBJECT TO THE LOWER LEVELS OF FUNDING OR CAN THE DATE IN THE AMENDMENTS BE CHANGED TO MARCH 31ST 1982, IN WHICH CASE WE WILL HAVE A FIGHTING CHANCE FOR A 75% FEDERAL, SHARE.

SENATOR, THE COMMISION WOULD LIKE TO MAKE SOME ADDITIONAL COMMENTS ON OTHER ASPECTS OF THE REAGAN AND CHAFEE AMENDMENTS AND IF THE HEARING RECORD IS GOING TO BE OPEN FOR A FEW MORE DAYS, WE WILL DELIVER A LETTER TO YOUR STAFF THIS WEEK.

CHAIRMAN TURCO WANTED ME TO STRESS TODAY BOTH THE SIGNIFICANCE OF THE CSO PROBLEM AND THE IMPORTANCE THAT FEDERAL FUNDS FOR CSO WILL PLAY IN IMPROVING WATER QUALITY IN NARRAGANSETT BAY.

IN CLOSING, LET ME SAY THAT YOUR STAFF HAS BEEN MOST HELPFUL IN WORKING WITH THE COMMISION AND THE COMMISSION WOULD LIKE TO MAKE OUR RESOURCES AVAILABLE TO YOU WHEN YOU MARK-UP A BILL AND WHEN YOU GO TO THE FLOOR OF THE CONGRESS LATER THIS YEAR.

THANK YOU.

**COALITION
of
COASTAL
COMMUNITIES**

Washington County Government Center
Tower Hill Rd., Wakefield, R.I. 02879

COUNCILMAN JOHN DOYLE, *President*
MAYOR EDWARD DIPRETE, *Vice President*
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TESTIMONY OF DAVID C. STROUSS ON BEHALF OF
THE COALITION OF COASTAL COMMUNITIES
BEFORE THE SUBCOMMITTEE ON ENVIRONMENTAL
POLLUTION OF THE SENATE COMMITTEE ON
THE ENVIRONMENT AND PUBLIC WORKS, AT HEARINGS
ON REAUTHORIZATION OF THE CLEAN WATER ACT
JUNE 29, 1981

Mr. Chairman and Members of the Subcommittee:

I am David C.Strouss, Executive Director of the Coalition of Coastal Communities. I appear here,at your invitation, on behalf of the seventeen cities and towns which are members of this regional council of local governments for the coastal areas of Rhode Island. The Coalition was formed in 1979 because of the severe water pollution problems in Upper Narragansett Bay and the ensuing impacts on downstream communities. During the past three years the Coalition of Coastal Communities has been working on water quality management issues and problems plagueing the Rhode Island coast. We strongly support the intent of the proposed amendments introduced by Senator John Chafee to provide a more cost effective water pollution abatement program without abandoning the national goals and policies of the Clean Water Act. It is our great concern that these amendments are not used to open the door to weakening the

Clean Water Act in 1982 or following years. The State of Rhode Island and its municipalities have demonstrated a strong commitment to clean water which has been aided by the Federal Clean Water Act. The Coalition certainly supports restructuring the federal role to allow municipalities to proceed more efficiently with their wastewater construction grants projects.In this region the cities and towns as well as the states are in fiscal situations no better than the federal governments. Yet we do not wish to see the goals and policies of the Clean Water Act changed in the future due to the weakened economies of the early 1980s.

The effect of the proposed amendments on Rhode Island's coastal communities can be better understood by examining the municipal construction grants program in the state since the inception of P.L. 92-500 in 1972. State priority determination is currently based upon project rating according to maximum water quality benefit. While the state's highest priority projects - the Providence wastewater treatment facility and combined sewer overflows have only been able recently to proceed in their planning and design phases, seven other secondary treatment facilities have been completed and upon recent inspection were in compliance with effluent standards. Three more secondary treatment facilities are well into construction or expansion including the Cranston wastewater facility which is next highest on the priority list. Interceptor projects have been funded and other secondary treatment facilities are ready to proceed. It should be noted that the EPA construction grant priority list for 1981-84 in Rhode Island does not include any major collector sewer projects. At the end of 1978 only 1% of EPA funds received were unobligated. The most significant statistic on the construction grants program however, is that the state has received from the federal government only 170 million dollars out of the national allocation of 30 billion dollars.

The 1980 estimated needs for Rhode Island are between 887 and 925 million dollars. At the previous rate of federal funding to the state it would take 10 to 15 years alone just to complete sewerage facilities f the City of Providence. Meanwhile other municipalities' wastewater treatment projects might not be completed for over thirty years. To the coastal communites and the people of this state this was clearly unacceptable for addressing the state's highest environmental priority. In November, 1980 we proceeded to pass the state's largest bond referendum, 87.7 million dollars to accelerate funding of the state's highest priority water pollution project.

With minimnum federal funds and important water quality needs the state and municipalities have had to use funds wisely and efficiently. Rhode Island and states with similar accomplishments should not be penalized by zero funding in 1982 for the inefficiencies of the federal program and previous federal incentives for using the Clean Water Program to build for future growth and economic development. Rhode Island can simply not afford to loose any federal funds in 1982 for water pollution abatement. The Coalition of Coastal Communities strongly supports the new EPA allocation formula which is based upon existing needs and backlogs rather than projected growth.

An examination of the quality of the major rivers which feed Upper Narragansett Bay and the condition of the Upper Bay after wet weather discharges reveals how bad the water pollution problems in the state still are. The Clean Water Program has failed to solve Rhode Island's worst water pollution problems.

Combined Sewer Overflow: Rhode Island's highest priority for clean water is the elimination of the discharges of untreated sewage into Narragansett Bay. At this time the major sources of untreated sewage flowing into the bay are the combined sewer overflows from the heavily urbanized municipalities at the head of Narragansett Bay. Providence has 65 combined sewer overflows, Pawtucket and Central Falls 30 overflows. The '208' and municipal '201' studies estimate that these combined sewer overflows contribute 2.27 million pounds of BOD per year, 2.35 million lbs of suspended solids per year, 440 million gallons of settleable solids/year and fecal coliform counts between 230 and 1,500,000 per 100ml. Contamination by pathogens and dissolved oxygen depletion are considered the major environmental problems. CSOs are also contributing unknown amounts of toxic metals, carcinogens, pesticides, organic solvents, and petroleum hydrocarbons.

Damage created by this water pollution problem is highlighted by the conditional closing of shellfishing grounds in Upper Narragansett Bay (9400 acres) after periods of 1/2 inch or more of rainfall. In 1978 the Upper Bay was closed to shellfishing 271 days. There are also eight beaches within the conditional shellfishing zone in the Upper Bay. There were 225,000 users in the summer of 1966, in 1979 these beaches were either closed by the Department of Environmental Management (DEM) or avoided by many former users. In addition, the CSOs are among the principal causes of poor water quality of the rivers in the cities on the Upper Bay: all of which are unsuitable for shellfishing , most recreational uses, and generally pose a health risk to potential users.

Despite these problems the Upper Bay is not a dead environment-yet. A sport fishing survey indicated that 33% of the blue fish and 37% of the blackfish flounder caught in Narragansett Bay in 1978 were taken from the Upper Bay (Coastal Resources Center,1980). Thirty five species of fish have been recorded caught in a power plant intake near Fox Point in Providence. According to a 1976 DEM report the lower Providence River and conditionally closed shellfishing grounds of the Upper Bay could provide an annual harvest of 7 million pounds of shellfish.The potential for Upper Narragansett Bay and even lower Providence River to recover from severe water pollution might indeed exist.

At the edge of the conditional shellfishing line of the Upper Bay lies the Bay Islands Park and Narragansett Bay Estuarine Sanctuary. These islands and surrounding waters offer a unique recreational and educational resource to the 700,000 people who live within 15 miles. CLearly no one wishes to see the Upper Bay combined sewer overflows extend their crippling effect into the estuarine sanctuary or surrounding clean waters.

The problems of combined sewer discharges are clearly not limited to the municipalities where they originate but have serious impacts on all of the coastal communities and their water based industries and economies. Of the proposed reforms in Senator Chafee's and the Administration's amendments, the most important for improving the water quality of Narragansett Bay is the special allocation of 200 million dollars per year for work on the discharges of combined sewer overflows into bays and estuaries. This amount of federal aid will hardly make a dent on the 27.5 billion dollar national needs for CSOs. However it will allow for the continued funding of CSO projects for bays and estuaries and the opportunity to demonstrate to the federal government more cost effective combined sewer treatment and management. Meanwhile the nation's and world's marine resources and fisheries will not be harmed further by the pollution from the urbanized areas at the headwaters of the country's bays and estuaries. As nearly 60% of the people in this country live in coastal states , and in Rhode island the vast majority of the 947,000 people live within miles of the Bay, the potential for this water improvement program to benefit many Americans truly exists.

Inflow Infiltration and Rehabilation of Sewers The older and more industrialized cities in the United States have experienced the greatest difficulties in complying with the Clean Water Act requirements. Problems specific to these older cities like Boston, Providence, and Newport include tidal inflow and groudwater infiltration in their aging sewer lines-some of which are over 100 years old. The proposed amendments must address the problems of these types of municipalities if they are to achieve their goal of improving water quality in a more cost effective manner. The elimination of inflow/infiltration and sewer rehabilitation as eligible funding categories may result in over emphasis of correcting flow related problems at the end of the system, the treatment plant, rather than addressing the source of the problem.In some cases this may be a more cost effective solution.

If the states and municipalities determine that these categories are high priority and cost effective solutions,the Clean Water Act should not be contradicting itself by mandating cost effective solutions but discouraging the states and municipalities from using them.

Federal Funding Share: The Coalition of Coastal Communities supports a municipal construction grants program which provides a multi-year authorization, federal funds for highest priority projects which will achieve the most water quality benefits, and a phased reduction which does not discriminate against the needs of smaller or less developed communities. Some municipalities without grant approval for Step II prior to December 31,1981 will have to provide greater local shares for their wastewater treatment facilities as a result of this provision in Senator Chafee's proposed amendments. In certain cases this blanket deadline may be unjustly penalizing municipalities which have incurred delays in their facilities planning process due to their efforts to achieve cost-effective solutions. In Rhode Island coastal communities such as East Greenwich and Warwick have had final approval of their facilities plans delayed due to consideration of cost effective solutions such as regionalization and rehabilitation of septic systems.

Innovative and Alternative Technology: The Coalition agrees with both President Reagan and Senator Chafee in their continued support of additional allocations for I&A projects. This program encourages the greater use of cost-effective and energy saving approaches to wastewater treatment and has spurn timely innovations . Although I&A technologies have not been extensively used in Rhode Island , the proposed reduction and/or elimination of federal dollars for conventional categories of water pollution abatement will be a greater incentive to use I&A approaches in the future.

Engineering Responsibility: The proposed reforms to the Clean Water Act which make engineers more responsible for their designs,estimates, specifications, and construction will improve the cost-effectiveness of the entire wastewater treatment program. Too often the blame has been directed at the municipality for building a sewage treatment facility which has not worked properly or is uneconomical to operate and maintain. The Coalition of Coastal Communities strongly supports the proposal of Senators Strafford,Randolph,and Chafee . The result will be wastewater treatment facilities which are more manageable and better designed and constructed. The municipalities need stronger guarantees from the industry that the facility will work according to specifications, and that the specifications willl achieve the pollution discharge standards.

Areawide Wastetreatment Management: The Coalition supports the continued funding of 208 as proposed by Senator Chafee which allows for the implementation of non-point source pollution programs and policies. Stormwater runoff will continue to be a major problem in the heavily industrialized Upper Bay commmunities and problems such as agricultural runoff and contamination from failing septic disposal systems are affecting the more rural coastal communities.

Thank you for the opportunity to testify on these important amendments to the Clean Water Act.

# STATEMENT OF THE
# NEW ENGLAND INTERSTATE WATER POLLUTION CONTROL COMMISSION
BEFORE
SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE

PRESENTED BY

ALFRED E. PELOQUIN, P.E.
EXECUTIVE SECRETARY, NEIWPCC

ON
JUNE 29, 1981

AT
WARWICK, RHODE ISLAND

ESTABLISHED 1947

# STATEMENT OF THE
# NEW ENGLAND INTERSTATE WATER POLLUTION CONTROL COMMISSION
# BEFORE
# SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION
# COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
# UNITED STATES SENATE

June 29, 1981
Warwick, Rhode Island

Mr. Chairman - Members of the Subcommittee,

I am Alfred E. Peloquin, Executive Secretary of the New England Interstate Water Pollution Control Commission, comprised of the six New England States and New York State. I am presenting this statement on behalf of our Compact-member States. It is my understanding that some of our States will also be presenting statements which will address with more specificity certain construction grants reform issues.

Our States wish to commend the Senator and his co-sponsors for taking an early initiative in proposing legislative reforms for the water pollution control program. The States, through the Association of State and Interstate Water Pollution Control Administrators, have long been recommending legislative and regulatory reforms to streamline the construction grants program so as to attain maximum water quality benefits and water pollution control from limited available resources.

The States have reviewed the Senator's bill S. 1274 as well as the Administration's bill S. 975 and appreciate the opportunity of presenting the following comments on specific provisions of the legislation.

With regard to Sec. 2 of S. 1274, which provides for reimbursement of non-Federal funds expended for Step 1 and Step 2 work at the time the Step 3 grant is made, the States are concerned that such a procedure may adversely affect the making of combined Step 2-3 grants now authorized by statute. The State of Maine expressed particular concern over this issue. Should this procedure be adopted, we request that the legislative history of the proposed change make abundantly clear that the current procedure for combining Step 2-3 grants will not be changed.

All of our Compact-member States concur in a reduced Federal share for construction grants projects. The State of Rhode Island supports the procedure set forth in Sec. 3 of S. 1274 and feels that such a procedure must be made mandatory and applied uniformly. Our other States are of the opinion that the individual States and their respective Governors are knowledgeable of the problems in their own State, and of the maximum per family charges which can be assessed to amortize the bonds issued for construction of the treatment works. Consequently, they can better determine the level of Federal grant reduction. It is recognized that, in a more affluent State, a lower Federal share could be accommodated more readily than in one that is less affluent. Our Compact-member States, except Rhode Island as previously stated, agree that the Clean Water Act should be amended to provide a Governor with the discretionary authority to reduce the level of Federal share for treatment works projects.

The question of limiting categories of projects as grant eligible is of serious concern to the States. As the Committee must surely be aware, the causes of water pollution are not uniform nationally. However, the adverse impact of pollution on the environment and the public health are reasonably uniform. For example, a combined sewer overflow problem in a major urban area in one State may have a greater adverse impact on the water quality of a receiving stream than the untreated discharge of a small community to a major receiving river. In such instances, correction of the combined sewer overflow problem would likely produce greater water quality benefits than a treatment works for the small community. With due consideration to the intent of the Congress to concentrate on funding projects providing maximum water quality and public health benefits our Compact-member States, except Rhode Island, recommend no change in the eligibility categories presently set forth in the Act. Because of the inadequacy of available funds, Rhode Island will not fund collector systems and would prefer to have this category eliminated as a grant eligible item. There is unanimity that the priority list should govern the projects to be funded. In considering eligibilities, the States unanimously endorse the separate $200 million to be made available under Sec. 7 of S. 1274 to address the combined sewer overflow problem.

The elimination of reserve capacity as a grant eligible item in treatment works seems inconsistent with the present administration's pronouncements to encourage national economic growth. The wastes generated as a result of such growth must be accommodated. Further, sound engineering design calls for the consideration of a reasonable rate of growth over the life of the treatment works to assure that plant capacity will not be prematurely exceeded thereby requiring reconstruction or expansion of a treatment works prior to its full amortization. There is consensus among the States that a reasonable level of reserve capacity should be considered as grant eligible or, as an alternate approach, that the local share of the cost of reserve capacity be limited to the incremental cost of providing such capacity. For example, if a project design, without reserve capacity, calls for a 24-inch interceptor and the design with reserve capacity calls for a 36-inch interceptor, the local share should be the differential between the cost of a 24-inch interceptor versus the cost of the 36-inch pipe.

The proposed provision of an engineer warranty of proper plant performance has become the subject of much debate. While the States recognize that this proposal is related to recent reports that a large number of treatment works are not meeting their permit conditions, several question the feasibility and workability of the proposed requirement. It is uniformly recognized that the EPA regulations impose conditions in the bidding process and the procurement of equipment over which the architect-engineer has no control. The States anticipate that imposition of this requirement will result in a disproportionate increase in architect-engineer fees and is still not likely to resolve existing problems. Most States are also of the opinion that experience has improved the competency of State review personnel and this has resulted in a reduction in the extent of the problem. In some cases, States have also found that threat of court action for poor performance against an architect-engineer has resulted in substantial improvement in the quality of the end product. New Hampshire, however, on the basis of its experience, strongly feels that architect-engineer accountability must be established and supports the provisions of Sec. 9 of S. 1274. All of our States do agree that something must be done to overcome the GAO design deficiency issue. There was unanimity that a large portion of the problem could be eliminated through changes in the EPA regulations rather than by statute.

The States also caution that the current criticisms of treatment plant operation should be kept in proper perspective. Since information as to the nature, frequency, time frame and extent of violations is rarely released, one cannot accurately assess the extent of a given violation and its impact on the environment. Depending on the circumstances surrounding a violation, what can legally be called a violation may in fact have minimal adverse impact on the environment and the public health. Further, one only hears about improperly operated facilities. It must be recognized that many plants operate properly and that even those with operating difficulties do reduce the level of pollution discharged to the receiving waters. On the basis of the foregoing, our States, except for New Hampshire, recommend that the architect-engineer warranty issue be studied further before locking it in as a statutory requirement.

With regard to the allotment formula for construction grants funds, our Compact-member States recommend retention of the existing formula updated to the use of 1980 population and needs survey data. Although the formula is not perfect, it has been well established and provides some degree of stability to the program. Development of a formula based on water quality standards and total maximum daily loads is expected to require substantial effort and generate uncertainties due to a new learning curve period and the related problems of application. For the immediate future, the program interests would best be served by retaining and updating the existing formula and implementing a policy of reallocating funds remaining unobligated subsequent to their respective statutory obligation date.

Adequate funding of Section 205(g) of the Clean Water Act is essential to proper management of the delegated responsibilities of the construction grants program. New York State supports adoption of the Administration proposal. The New England States, however, are of the opinion that the proposed amendment for determining the amount of 205(g) funds to be made available lends itself to "game playing" and could provide a disincentive for prompt progress payments to grantees so as to build up an unexpended balance for the purpose of generating a larger 205(g) allocation. The definition of "unexpended balance" is presently an issue of major concern. Discussions with EPA staff members are surfacing different interpretations of words, some of which could prove disastrous in determining the amount of 205(g) funds available to a State. Maintenance of the current level of management grants funding is critical to proper management of the program. Consequently, the New England States recommend retention of the current statutory provision of 2 percent of the authorized amount.

Sec. 12 of S. 1274 provides a nominal amount for continuing some areawide planning activity under Section 208. The six New England States support the phase-out of 208 planning as a separate program activity. Such planning should be accomplished under Section 303(e) of the Act with appropriate funding support included under Section 106 grants. In a statement presented earlier before this Committee by New York State, that State has set forth its recommendations relative to the 208 program and funding pertinent thereto.

Our Compact-member States are unanimous in recommending that the amount of set asides for innovative/alternative technology remain as provided in the Clean Water Act but that use of the set aside be discretionary rather than mandatory. The existence of unobligated balances under these set asides should not preclude a State from sharing in reallocated funds if its other construction grants funds are fully obligated.

Because of the extensive time loss in EPA review of innovative/alternative projects, the States also strongly recommend that determination of the need for such projects be returned to the State to be incorporated into the EPA approved State priority list.

Use of innovative/alternative technology has been limited for a number of reasons which include: problems in EPA approval of projects as innovative/alternative, NEPA requirements for detailed environmental impacts, statements, system reliability, greater operating costs because of extra demands for environmental safeguards which could include extra testing requirements, limitations on by-product use and discharge limitations. Construction of wastewater treatment facilities is costly. Consequently municipal officials would naturally be reluctant to finance this type of construction which must, of necessity, be untried and untested. Likewise, the design engineer, whose reputation is on the line, could be reluctant to commit a community to an untried, untested system when proven systems exist. With the kind of adverse press we are now witnessing relative to the operation of conventional systems, one can well imagine the kind of press that could result from failed or untried systems. Such press is also considered a deterrent to the use of innovative/alternative technology.

As a final comment, the reduced level of Federal funding will act as a disincentive to the funding of innovative/alternative technology because, in the event of failure, the cost of facility replacement will have to come from continuously shrinking resources.

With reference to Section 207 of the Clean Water Act, New York State, in its testimony submitted earlier, has recommended a varying level of authorization which reflects its unique situation of massive urban needs related to New York City projects. The six New England States however are unanimous in recommending a $5 billion authorization for fiscal years 82 through 87.

The States recognize that the authorization is an appropriation ceiling and, of late, Congress has appropriated far less than the authorized amount. Adoption of a $5 billion authorization would provide Congress with the flexibility to appropriate at a level deemed appropriate and consistent with the national economy. Anticipating that the Administration efforts to reduce inflation are successful, it is not unreasonable to anticipate, in a year or two, the feasibility and desirability of a construction grants appropriation greater than is now being contemplated. A $5 billion authorization would provide Congress with the flexibility to act accordingly without requiring an amendment to the Act.

On the issue of determination of priorities, the States are unanimous in the view that this determination should be made by the States with highest priority given to public health and water quality benefits.

In our Compact area, several large urban projects are now nearing construction stage. The cost of these projects will exceed the appropriate State's annual construction grants allotment. Our States anticipate that some communities will be willing to proceed with construction in anticipation of reimbursement at a later date. Consequently, our States support retention of the reimbursement provisions under Section 206 of the Clean Water Act.

In addressing the proposed amendment to Section 301 on permit compliance, our States felt that an extension of the deadline will be required but that the issue was too complex to be addressed in the context and within the time constraints of adopting legislative reforms. It is recommended that the Congress mandate a detailed study of the problem with a report to Congress under provisions of Section 516 of the Clean Water Act. There was unanimity that the limitations must be reasonable and must also reflect the availability of resources to achieve compliance with the requirements of the Act.

Our Compact-member States applaud the revision to the definition of secondary treatment as set forth in Sec. 18 of S. 1274. However, the States recommend that the proposed amendment go further and provide that water quality and public health considerations be the determining factor in requirements for secondary treatment, that waivers from secondary treatment requirements be allowed when no adverse impact on the environment is discernable from a discharge receiving less than secondary treatment and, finally, that the regulations redefine secondary treatment to eliminate the 85% removal and allow a maximum range of biological or equivalent technologies.

With regard to the revision of water quality standards and establishment of total maximum daily loads, there was consensus among the States that the States should develop their own water quality standards and that current modelling technology leaves much to be desired. The States are also concerned with the two-year time frame specified in the proposed amendment. Based on past experience in stream classification and with due consideration to available resources, our States recommend that the statute mandate the submission of State schedules, within a specified time, for accomplishing revisions to the water quality standards and the establishment of maximum daily loads.

Mr. Chairman, the accomplishments of our Compact-member States under the Clean Water Act have been noteworthy. Our New England States could have used substantially more construction grants funds had such been available. Our States have consistently supported and do support now the two-tier incentive funding proposal initially sponsored by Congressmen Cleveland (NH) and Wright (TX). We urge that this amendment be incorporated into the reform legislation presently under consideration.

Finally, Mr. Chairman, we would like to call to the Committee's attention the streamlining recommendations developed by the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA) and the National Governors Association. For the convenience of the Committee, a copy of the Association's Legislative Positions, adopted in January of this year, is also submitted to supplement this statement. The recommendations of our Compact-member States as discussed in this statement are generally consistent with the ASIWPCA position.

We thank you for the opportunity of presenting our views on the proposed amendments to the Clean Water Act.

**New England Water Pollution Control Association, Inc.**

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## Statement of the New England Water Pollution Control Association For Senate Public Works Committee Hearing Regarding Proposed Amendments to the Clean Water Act

The New England Water Pollution Control Association (NEWPCA) is comprised of over 2,000 members representing equipment manufacturers, consulting engineers, water pollution control plant operators, construction contractors and public officials from the six New England states. Our organization has in the past been in the forefront of both technical and legislative actions aimed at improving the water quality of the rivers, streams and Atlantic coastal areas of New England. The NEWPCA membership represents a cross-section of technical and professional people who have an intimate working relationship with the Clean Water Act and as a result can offer valuable insights and advice with regard to the proposed amendments. Our comments and suggestions are outlined below and are presented on an issue by issue basis. Certain issues that are raised are not addressed in the proposed amendments, either in the Administration's proposal or Mr. Chafee's bill, however, we feel they are important and bear consideration.

In defense of the program, we wish to emphasize that water quality improvement has come about in the United States as a result of the construction grants program. The recent GAO report citing how poorly treatment plants are operating used a survey of permit violations as its basis; therefore, it must be analyzed in that context. From a functional standpoint, most plants work well and provide a significant water quality benefit compared to having no treatment plant at all.

Whether a plant always performs up to its discharge permit limitations is not necessarily an accurate indication of its value from a water quality perspective. If a plant is removing pollutants to the 80 percent level, technically it is not meeting its discharge permit requirements and according to GAO, "does not work," however, we submit that removing 80 percent of the pollutants certainly has a major beneficial impact on the water quality of the receiving waters. Most plants violate their permits on this manner at one time or another but on the whole they operate above their permit requirements and more than meet the functional water quality goals of the Clean Water Act.

An appreciation of the technical and real world side of the program is vital to making good decisions regarding the future of the program. A too legalistic approach to its evaluation will cause a panic approach to be used resulting in poor long-term decisions to the ultimate detriment of water quality.

We would like to add at the outset that we do concur very strongly with the Administration's attempts at overall budget reductions in the attempt to reduce inflation and balance the federal budget. We also concur with the Administration's proposals to streamline and improve the operation of the Environmental Protection Agency (EPA) construction grants program and speed up the overall time for completion of a typical project. We have worked with the EPA construction grants program since 1972 and find that it has become more and more complex and cumbersome as time has gone on and support wholeheartedly any efforts being made to simplify its operation. However, consistency of program policy and continuity at a known level of funding are essential to the program's success.

**Eligibility**

Funding of collector sewers should be at the discretion of states. Some projects hinge on ability to build or extend sewer system or else they are not financially viable.

With regard to funding reserve capacity in projects, we feel that a reasonable reserve capacity is part of a good planning and design approach and should not be legislated. Communities will wind up building unsuitable projects which ultimately will cost more if no reserve capacity is funded. Appropriate state review of the design criteria will provide the necessary oversight regarding the design conditions. However, if reserve capacity cannot be funded, it is essential that an incremental cost approach be used to determine eligible versus non-eligible portions of the program.

Combined sewer overflow (CSO) facilities should be funded where necessary to attain water quality goals. This is particularly important to large, older coastal cities, (ie: Providence, Boston). A separate category for funding should be provided.

If Step 1 and 2 grants are funded only via reimbursement will EPA or state retroactively question cost or eligibility of expenses? Will bureaucratic delays be eliminated? Will second guess auditing be eliminated? Good idea if it will speed up process, if not then there is no benefit and could have serious negative impact due to complexity of regulations and semi-involvement of state and EPA. There must be a clear understanding of the workings of the program to appreciate this issue. We are not sure of the intent of the proposed legislation regarding this issue.

A gradual phasing of new Step 1 and 2 eligibility is necessary for program continuity; therefore, we suggest a timetable for changes in Step 1 and 2 eligibility calling for 75 percent funding for Step 1 grants made prior to October 1, 1981 and for Step 2 grants made prior to October 1, 1983.

We support the reduction in grant funding levels in the Chafee proposal rather than the discretionary approach proposed by the Administration. Constant changing of funding percentage will reduce program credibility. Continuity and consistency are needed to get support at local level. The likely benefit of a reduced federal funding will be to create more local input and interest in project development. With only a 10 percent interest in a project, local public officials are more apt to look toward a project with maximum funding potential, rather than the best project for them.

**Allotment Formula**

Rather than change the allotment formula, we support utilizing updated needs, survey and population data with the current allotment formula for future program funding. This will result in minimum program disruption and delays. The current method of allotment was developed after much discussion and controversy and is now an accepted procedure. To change at this time would only appear to be inviting a new controversy.

**Authorization**

We support an authorization at a higher level than the $2.4 billion being proposed. This will allow for adjustment in program allocations either up or down from the currently proposed target of $2.4 billion should economic conditions present the opportunity and Congress decide that a larger appropriation is necessary and desirable. A low authorization level would not permit Congress that needed flexibility in program management.

**Section 205(g)**

Must be consistent with level of grant work in state. Eventually unobligated and unexpended balance will be used up, then what is 205(g) funding based upon? Work continues beyond grant offer to last project, (at least 3 years, probably closer to 5 years). We support a funding level of 2 percent of the authorization amount to allow the states to maintain proper staff levels on a consistent basis.

**Priority List**

Should be based on water quality benefits and public health. No other considerations should affect priority list.

**Innovative/Alternative (I/A) Set Aside**

Optional I/A set aside at 3 percent level is supported, provided the money is not lost to the states if it is not spent in that category of work.

**Rural Set Aside**

Four percent optional set aside is supported.

**Reimbursement**

We support the continuance of a reimbursement mechanism to aid large cities or metropolitan agencies in moving ahead with a project when all funds might not be immediately available. Delays will result in increased cost for the same project.

**Secondary Treatment**

A redefinition of secondary treatment is needed to allow for flexibility in method of treatment and relationship to water quality goals in the receiving waters. Water quality requirements are the most appropriate determinant of level of treatment not an arbitrary limit on pollutant removal. The issue of waivers for coastal treatment plants must be addressed and decisions made regarding the need for treatment in excess of primary. Many large projects in urban industrial areas are being delayed pending waiver decisions.

**Compliance**

Statutory deadlines should be dropped. State strategy should address this issue along with priority list. EPA can monitor through review of state programs. Serious problems can be resolved via EPA/state. "Zero" discharge requirement totally impractical.

**208 Funding**

States should address this issue in basin planning 303(e) strategy. Suggested amount of $100,000 would not allow serious second level of planning on area-wide basis.

**Engineer Accountability**

Let us begin by saying this area is one which needs a great deal more study and discussion before a position is adopted legislatively, and this organization is more than happy to offer the experience of its membership to such discussions. No engineer can warrant plant performance without having full responsibility for operational control for the warranty period (along with funds to operate the plant). With many parties involved in construction, ie: contractors, equipment manufacturers, state, EPA, local officials, and in operation, there are too many other sources of plant failure to place blame only with the engineer. The New England Water Pollution Control Association represents all of these involved parties and does not support the engineer warranty concept. It is agreed that the engineer occupies a unique position in a project in that he is involved from beginning to end and is the continuing link with the local officials. This should not automatically place all responsibility with the Engineer. Other regulatory and statutory elements of the construction grants program limit the control the engineer has over the total project. These include the "or equal" clause for equipment selection, control of funds and eligibility, public competitive bidding requirements and most importantly, operational and budgetary control of the plant after project completion. In addition, engineers do warrent their work by placing their seal of registration and professional reputation on the line with every project.

**Self Sufficiency**

Local communities should be encouraged and helped to run Publicly Owned Treatment Works (POTW's) as self sufficient utilities, as are water companies. A large educational effort needed here to create image of wastewater treatment as a utility. Good place to put some money to assist local officials in understanding this issue.

**Two Tier**

A two tier funding system may provide a needed incentive to get states and EPA moving.

**Streamlining**

The 1990 strategy presented some good ideas which should be carried through to implementation. More efficient operation of the program is essential to its success. Enormous cost impacts have hit the program due to current operation resulting in years of delay for some projects.

**Clean Water Goals**

"Zero" discharge is not realistic and can never be met. Fishable, swimmable deadline should be extended at least 10 years or eliminated. Funding limitations and program delays make deadlines worthless.

# ASIWPCA

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# LEGISLATIVE POSITIONS

## January 1981

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Association of State and Interstate Water Pollution Control Administrators

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# INTRODUCTION

The Association of State and Interstate Water Pollution Control Administrators (ASIWPCA) is a national organization with one member representing each of the 50 states, the District of Columbia, 3 territories and 8 interstate organizations. The organization was established in 1962 to provide state officials a forum for communication, cooperation and activities of mutual benefit to its members.

The national policy declared by Section 101(b) of the Clean Water Act prescribes a meaningful role for states in implementing the national water quality program. The members of ASIWPCA represent the state organizations which on a day-to-day basis implement the water quality program. Our members know the program in detail, are familiar with the practical problems of implementation, are familiar with the good and bad features of the program and collectively manage program implementation resources, both manpower and financial, in excess of the USEPA program resources.

Because of the experience, responsibilities and intimate program knowledge of our members, ASIWPCA has an obligation to contribute substantively to the improvement and refinement of the present national program. We are committed to the goal of improved water quality and we have no fundamental problem with the concepts and major programs in the Clean Water Act or with the basic framework which Congress established for administering the Nation's water quality program. The legislative recommendations contained herein must be interpreted only as constructive recommendations on how to make the national water quality program less burdensome, more responsive and less costly to administer to the regulated and implementing organizations.

The legislative positions presented here have been developed over a period of nearly 4 years. All have been adopted by a majority of the voting Association membership. The history of each position shows votes "In Favor-Opposed-Abstain" as appropriate.

It should be noted that the Association is continuing its evaluation of the program through a number of Task Forces. In January, 1981, a significant number of prior legislative positions were referred by the membership to these Task Forces for further study in an effort to be more responsive to changing program circumstances. Thus, further membership action on Legislative Position will occur at the next meeting in August, 1981.

WL748 (1)

Position L 81-1
1/13/81

### REFERENCE

Section 106(a) Authorization for State Program Grants

### ASIWPCA RECOMMENDATION

L 81-1. Authorize an appropriation of a minimum of $118 million per year and such additional sums as may be necessary for ten years beginning with FY82 for state program grants under Section 106.

### HISTORY

Adopted 7/77 by vote of 49-0-0.
Updated and reaffirmed 8/19/80 by vote of 34-1-0.
Amended and readopted 1/13/81 by vote of 36-1-0 as Position No. 8, High Priority.

### RATIONALE

Section 106 funding of state and interstate programs has carried an annual authorization of $100 million for some time past. Actual appropriations have varied to some extent from year to year but generally have been about one-half of the authorized amount.

A sufficient and, insofar as possible, a predictable level of federal support under Section 106 is especially important because the state and interstate agency programs to which Section 106 funding is directed are the basic administrative programs without which there would be no organized and coherent water quality management activities. Even the several more specialized authorizations for construction grants administration, state and interstate training activities, and clean lakes would have no framework of organization at the state level for their administration if the state and interstate agency programs supported by Section 106 grants did not exist. Of course, the many essential activities financed only by 106 grants and the counter part state appropriations such as monitoring, standards-making, treatment plant inspection, enforcement, and much of the water quality planning would not function at all.

The most recent EPA Needs Survey (1980) establishes a conservatively figured $118 million annual level of necessary federal support for state program activities mandated by the Clean Water Act. This is in 1980 dollars and does not allow for virtually certain inflation. Nor does it take any account of expectations that increasing reliance will be placed on the state and interstate agencies for attainment of federal water management objectives as well as for activities addressed to state and regional objectives.

The consistently low level of 106 funding and uncertainty as to what may be available from year to year have been serious inhibiting factors in the state and interstate programs. They have made it extremely difficult, and frequently impossible, to maintain basic complements of personnel and equipment with which to carry on the programs efficiently, to say nothing of maintaining the flexibility required to accept the constantly increasing responsibilities under the Clean Water Act.

Another factor contributing to the need for certainty as to the actual amounts of federal grant support over longer periods than at present is the time when federal appropriations become firm and available. Virtually always, the appropriation bill covering EPA passes in September or even later. This is four-six months after most state legislatures have considered their appropriations to the state and interstate water quality agencies. By the time these agencies actually know how much federal money they will have, their fiscal years are 25 percent or more gone.

For the substantive and procedural reasons just presented, Section 106 authorization needs to be increased to $118 million annually with allowance for upward adjustment. Since the state and interstate agency programs play a basic and permanent part in administration of the Federal Clean Water Act as well as in the overall conduct of water quality management, a 10 year authorization is desirable. Two year funding (FY 82 and 83 at the same time and one year advance appropriations thereafter) is necessary so that the state and interstate agencies and their parent state governments may know what federal support they will have when state budgets are being considered.

Position L 81-2
1/13/81

## REFERENCE

Section 402 NPDES Permit Program Assumption

## ASIWPCA RECOMMENDATION

L 81-2. Amend Section 402 to allow partial assumption by states of the NPDES program to states pursuant to joint federal/state agreement.

## HISTORY

Adopted 5/79 by the Association Board as part of the "Recommendations for an Improved National Water Quality Program."
Amended and readopted 1/13/81 by vote of 36-1-0 as position No. 34, High Priority.

## RATIONALE

USEPA maintains that the NPDES delegation under Section 402 of the Clean Water Act and regulations thereunder must be an all or nothing proposition. Thus, under formal memorandums of agreement, the states are required to conduct all NPDES functions, including permitting, compliance monitoring and enforcement, for all dischargers both major and minor. However, in spite of this full, "paper" delegation, USEPA maintains joint review and involvement over major dischargers. This initial approach may have been justifiable from an historical perspective in that USEPA felt more oversight was necessary during the first round of permitting and enforcement under NPDES.

Given the extensive interaction between the regions and the states and the program development these past eight years, it would now seem appropriate to pursue new program alternatives that are more efficient from a resource perspective. Partial delegation would open the way for the regions and the states to distribute the workload (State/Federal agreement, major/minor or type of discharge) and prevent unnecessary overlap and duplication.

Position L 81-3
1/13/81

**REFERENCE**

Section 205(c) Allotment of Construction Grant Funds.

**ASIWPCA RECOMMENDATION**

L 81-3. Update the present formula for distribution of appropriated construction grant funds among states to incorporate 1980 state population and 1980 state needs survey information and be used for FY82, 83, 84, 85, 86, and 87.

The formula found in Table 3 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives, is based 50 percent on partial needs (need categories I, II, and IVB), 25 percent on total needs (Categories I through V) and 25 percent on state population. Also the provision of a minimum funding level for certain states and territories is to be retained.

**HISTORY**

Adopted 8/20/80 by majority vote of 30 members present.
Amended and readopted 1/13/81 by vote of 33-4-0 as position No. 17, High Priority.

**RATIONALE**

The allotment formula for Construction Grant program appropriations is an extremely difficult issue for State and Interstate agencies to agree upon. The present formula takes into account both state population and needs as reflected in the Needs Survey. Results of the 1980 census will be available in the near future and can be used to account for shifts that are occurring in state populations. The Needs Survey is being updated and soon should reflect a more accurate estimate of the dollars required for each category.

Any proposal, at this time, to deviate from the present formula will likely product non-productive conflict among the states. Such a situation would be detrimental to the overall water quality program when funding programs are being scrutinized and evaluated. Additionally, state programs and future funding strategies are generally based on the current allotment formula. The Association believes the allocation formula should remain fixed for at least five years into the future.

Position L 81-4
1/13/81

REFERENCE

Eligibilities Construction Grants

ASIWPCA RECOMMENDATION

L 81-4. The Association recommends that:

a. The present moratorium on funding projects for treatment of separate stormwater flows be extended from 1982 to 1987.

b. A moratorium on funding projects for major repair/rehabilitation of local transport systems (Category III(B)) be put into effect beginning with the FY83 allotment and ending with the FY87 allotment.

c. Beginning with the FY83 allotments, funding of new collector systems (Category IV(A)) continue to be eligible for municipalities with populations less than 3500 or for larger municipalities where such collector systems are necessary to the fiscal integrity of a treatment works where, and only where, collector systems are required to meet the enforceable requirements of the Act.

d. FmHA provide assistance for collector systems for small communities in the form of an expanded loan program.

e. Funding for Combined Sewer Overflow (CSO) correction remains eligible only where deemed necessary by studies pursuant to this act or where ordered by a state or federal court.

HISTORY

Adopted 8/20/80 by a majority vote of 39 members present.
Amended and readopted 1/13/81 by vote of 22/12/3 as position No. 37, High Priority.

RATIONALE

The Association recognizes that the present estimates of sewerage works construction needs far exceed the likely level of funding through the grant program over the next few years. However, the goals of the Clean Water Act require that the facilities be constructed to achieve compliance. The members have therefore accepted a position which proposes deferral of funding of selected need categories for at least a 5 year period in order to concentrate on Treatment Works and Major interceptor construction.

The members recognize that deadlines in the Clean Water Act will ultimately have to be modified to be consistent with such a delayed funding and construction program.

Position L 81-5
1/13/81

REFERENCE

Section 205(i) Innovative and Alternative Technology

ASIWPCA RECOMMENDATION

L 81-5. Amend Section 205(i) to eliminate the mandatory reserve provisions for Innovative and Alternative Technology and amend Section 202(a)(2) and (a)(4) to provide continued 85 percent grant eligibility as an incentive. The Association further recommends that the elimination of the mandatory reserve provisions be made immediately effective for previously appropriated allotments (Fiscal Years 79, 80 and 81).

HISTORY

Adopted 8/19/80 by majority vote of 39 members present.
Amended and readopted 1/13/81 by vote of 37-0-0 as position No. 35, High Priority.

RATIONALE

The mandatory reserve provisions for Innovative and Alternative Technology have proven very difficult to administer by the states. It simply has not been possible in most states to accomplish the planning for qualifying projects within the time allowed for obligation of the reserves. Further it has been nearly impossible to coordinate funding of those portions of projects qualifying for innovative or alternative funding with funding of the balance of the projects from General Account Funds since many of the qualifying projects are far from the top priority projects based on Water Quality Impacts.

The states fully support development and use of innovative and alternative technolgy. However, the local conditions must be appropriate in terms of environmental risk and the ability of the community to cope with and manage the technology. The best chance for success comes when such technology is not mandated but is pursued strictly on the basis of its appropriateness with some incentive funding to offset some of the risk.

Position L 81-6
1/13/81

REFERENCE

2-Tier Proposal Construction Grants

ASIWPCA RECOMMENDATION

L 81-6. The Association strongly supports the 2-tier incentive funding proposal as a viable approach to reducing the high unobligated balance problem experienced in the construction grant program. The 2-tier proposal provides incentive construction grant funding to states who have obligated a percentage of their allotment within 18 months of the start of the obligation period. All states share in a base appropriation by formula. Separate incentive funds are provided by appropriation. The use of base and incentive funds are subject to the same eligibility and priority considerations.

HISTORY

Adopted 8/20/80 by a majority vote of 39 members present.
Edited and readopted 1/13/81 by vote of 31/4/2 as position No. 39, High Priority.

RATIONALE

The 2-tier funding concept will permit those states that are able to use more funds than are presently available to them to make substantial progress toward the goals of the Clean Water Act by constructing facilities before inflation drives costs up further. Thus, while the base appropriation provides adequate funding for the rate of progress of the majority of states, the second tier allows the faster moving states to make more progress.

Although the major impact of the 2-tier concept will be to reduce the unobligated balances, it will also truly create an incentive to move projects to completion quicker and at lower cost.

Position L 81-7
1/13/81

## REFERENCE

Section 207
Appropriations

Authorization and Appropriation For Construction Grants

## ASIWPCA RECOMMENDATION

L 81-7. The Association recommends that Congress authorize not less than $5 billion per year (based on 1980 dollars) for FY 83 through 87 to fund the Title II construction grants program; and that Congress appropriate funds for this program at that level one year in advance.

## HISTORY

Adopted 7/77 by vote of 42-1-0.
Updated and Reconsidered 8/19/80 with a vote of 24-7-4.
Amended and readopted 1/13/81 by a vote of 36-0-1 as position No. 19, High Priority.

## RATIONALE

The Association membership endorses the extension of the funding provision contained in Section 207. No other Congressional action on the Clean Water Act will affect the Nation's progress toward meeting the goal of clean water as directly and as immediately as the timely appropriation of funding for the construction of public-owned treatment works.

Failure to authorize funds in a timely manner results in increased costs, interferes significantly with state and regional implementation of Section 208 plans, and erodes the confidence of elected officials and environmental organizations regarding our Nation's commitment to clean water. Cyclic or erratic funding of construction grants is not conducive to rational construction grant program management, creates inefficiencies in the grants processing procedures, creates staff uncertainty and instability, causes indecisiveness among local government officials and artificially escalates the cost of construction.

National concern has been expressed regarding the apparent failure by some states to promptly obligate appropriated funds. This concern is often cited as justification for reduced appropriations. The primary cause for slow progress is uncertainty regarding continued funding of the program. Inconclusive attempts by the Congress to resolve the funding problem, have not stimulated confidence in the federal commitment to the national water pollution control program.

Given funding continuity as recommended, state members will develop and manage a construction grant program to solve water quality problems at the known prescribed rate ($5-10 billion/yr.).

Congress should periodically adjust the annual authorizations to reflect increased construction costs.

Position L 81-8
1/13/81

**REFERENCE**

Section 101(a)(1) "Zero Discharge of Pollutants by 1985" Goal

**ASIWPCA RECOMMENDATION**

L 81-8. Amend Section 101(a)(1) to eliminate the "zero discharge of pollutants by 1985" goal.

**HISTORY**

Initially adopted 7/77 by vote of 48-0-1.
Reaffirmed 5/79 by membership vote and included in "Recommendations for an Improved National Water Quality Program."
Amended and readopted 1/13/81 by vote of 31-6-0 as position No. 1.

**RATIONALE**

A national goal, as stated in the Act, should be attainable. The incorporation of a specific date for compliance clearly indicates an intention and commitment to actually attain the goal. However, the present goal is unrealistic and unattainable, and therefore lacks credibility, even as a goal. The complete elimination of the discharge of pollutants will not likely occur considering the quality and character of pollutants contained in nonpoint source discharges. This section may be interpreted to (1) require all wastewater to be distilled or purified to an equivalent extent prior to discharge; (2) require no discharge; (3) require removal of only those constituents that were added to the water as it was used (National Commission on Water Quality); or (4) mandate land application to remove some pollutants from the waste stream while adding to soil contamination and increasing groundwater pollution potential.

Because varied and confusing interpretations are presently given to this section of the Act, ASIWPCA suggests that Congress consider and clarify its intent.

The elimination of pollutants from a discharge is certainly desirable where it can be accomplished practically. The report of the National Commission on Water Quality concludes that the technology is available, or will become available in the foreseeable future. However, the Commission admits that "the processes currently available are prohibitively costly, energy intensive and create large quantities of residual which must be disposed of in some way other than into the water."

Since enactment of PL 92-500, the Congress has become more aware of the economic impact of attaining the interim 1983 fishable-swimmable goal of the Act (National Commission on Water Quality report, USEPA needs survey information, 305(a) reports from USEPA, testimony, etc.). In program strategy development, policy decisions impacting program implementation and resource priority development by USEPA, increasing use is made of the benefit/cost concept. The Clean Water Act is silent on the use of economic considerations in decision-making processes leading to compliance with the Act - except for a specific reference in Section 302 dealing with discharge requirements more stringent than BAT. Over the past few years, more detailed information concerning the costs as well as the economic and social impacts of this goal have developed as have a restructuring of priorities in other areas of social concern at the federal, state and local government levels. Use of economic considerations is encouraged by the Association and we support appropriate, selective use of economic criteria under the direction of the Congress.

Position L 81-9
1/13/81

## REFERENCE

Section 204(b)(1) User Charges

## ASIWPCA RECOMMENDATION

L 81-9. Amend Section 204(b)(1) to permit local agencies to use any combination of revenue sources legally available to them, including ad valorem taxes, provided that: (1) the operation and maintenance budget can be shown to be adequate to maintain and operate treatment facilities to accepted standards; (2) committed revenues are sufficient to cover the operation and maintenance budget; and (3) industrial dischargers pay their proportional share of operation and maintenance costs.

## HISTORY

Adopted 7/77 by vote of 47-0-2.
Reconsidered 8/19/80 with a vote of 23-10-2.
Reaffirmed 1/13/81 by vote of 30-6-1 as position No. 15.

## RATIONALE

The Association believes that within the general framework of proportionality among user classes, and adequate funding of the operation and maintenance of waste treatment facilities, local goverments should be allowed freedom to select revenue generating systems most appropriate to them.

Although from a private utility and resource conservation point of view, the concept of user chargers has considerable merit because the user pays in proportion to use, the concept does not recognize that use of this public service is not dependent, in large part, upon ability to pay. This form of revenue system may, in many instances, not be locally acceptable or in the best interest of the local government.

The members of the Association can speak with "first hand" knowledge of the problems this requirement has imposed in the construction grants program and the cash flow hardships (through withholding grant payments) which have been imposed on local governments. The requirements of 40 CFR 35.935-13(a) and 40 CFR 35.925-11 have impacted grant projects to date (only USEPA knows the total of grant payments being with held) and the impact will become significantly greater until this problem area is reduced.

The Association believes that local governments can address the details of the problems and hardships created by the present requirement. We urge Congress to carefully consider their input.

Position L 81-10
1/13/81

REFERENCE

Section 203(b) Payment to Contractors

ASIWPCA RECOMMENDATION

L 81-10. Amend Section 203(b) to provide an optional payment system, such as an advanced payment system, in addition to the current system of reimbursement of the federal share of cost of the construction to date, plus the cost of materials stockpiled.

HISTORY

Adopted 8/19/80 by majority vote of 39 members present.
Reaffirmed 1/13/81 by vote of 29-5-3 as position No. 16.

RATIONALE

The current reimbursement method of paying grantees can sometimes cause grantees to be late in paying contractors for work accomplished. Many contracts call for payments to be made to the contractor within 10-20 days of acceptance by the grantee of the contractors' monthly estimate. This raises project cost through higher bids and negotiated costs. Due to high interest rates, many grantees cannot afford to use or provide interim financing.

The advanced payment system would allow grantees to have deposited in a local bank an advanced grant payment based on anticipated cost of construction after a contract is awarded for a number of upcoming months. The grantee would then draw on this money as needed to pay for eligible contractual services after they are performed. EPA or a delegated state would conduct evaluations of construction in place and total dollars paid to provide fiscal control during the interim construction inspections. Final payments to the grantee would continue to be processed using the current reimbursement mode in order to guard against overpayment.

Position L 81-11
1/13/81

REFERENCE

| | |
|---|---|
| Section 109(b) | Construction of Sewage Treatment Operator Training Facility |

ASIWPCA RECOMMENDATION

L 81-11. a) Amend Section 109(b) to allow 100 percent grants under this section for the construction of more than one training facility per state, and to remove the $500,000 limitation on the amount of any Section 109 grant.

b) Increase to $4,000,000 the maximum amount of Section 109 funds available to any state.

HISTORY

Adopted 7/77 by vote of 40-5-4.
Reconsidered 8/19/80 with vote of 23-9-3 on a) and 21-7-7 on b).
Reaffirmed 1/13/81 by vote of 23/4/10 as position No. 12.

RATIONALE

With the massive investment in publicly owned treatment works required to achieve compliance with the goals of the Act ($35.6 billion for categories I and II from the 1978 Needs Survey), there is an increasing awareness that the pollution abatement benefits of these projects will not be realized unless facilities are operated by well trained, skilled operators.

Recent studies by EPA and GAO indicate that 50 to 80 percent of existing Privately Owned Treatment Works (POTW) are in violation of their NPDES permits for discharge of secondary effluent. Of these approximately 30 percent are serious violations.

The East-West Study (Hegg et al. 1979b and Gray et al. 1979) attributed this poor plant to three main factors:

- Inability of operators to apply concepts and testing to process control.
- Failure to understand wastewater treatment.
- Quality of technical guidance available to operators.

As the wastewater treatment technology continues to become more sophisticated and more treatment plants are constructed, the demand for skilled workers will increase significantly.

In the unpublished (to date) Report "1990 Construction Grants Strategy, Task IV: Compliance Strategy, Sub-task D: Local Staffing and Training Requirements, December 1980" the following observations are made:

- The gross number of POTW will increase from the current set of approximately 15,300 plants to approximately 19,000 plants by 1990. By the year 2000 an additional 4,000 plants will be put into operation.
- Priority will be given to rural sites.
- Treatment will continue to involve higher technology so that by 1990 only 11.6 percent of the POTW will be at the primary treatment level. Over 44% of the POTW will be at levels more stringent than secondary treatment.
- An estimated 2,000 to 3,000 additional senior workers will require training in process control technology on an annual basis during the 1990s.

The value and significance of an adequate, well trained, and skilled operator work force cannot be overly stated. The American Academy of Environmental Engineers published a report in July 1980 entitled "An Analysis of the Role of the U.S. Environmental Protection Agency in the Development of Manpower for Water Pollution Control." The report makes the observation that skilled well trained personnel are the key to reducing capital costs for treatment facilities, through design innovations, and to controlling soaring operation and maintenance costs, which are a source of growing concern. It is fully reasonable for EPA to spend some public funds on training in the interest of restraining overall public expenditures, and in protecting the investments of the taxpayers.

Operator training is today largely a state responsibility with limited program or financial support. The present constraint of $500,000 per training facility and one training facility per state are not adequate to accomplish the job that must be done. A $500,000 funding limit will not provide for laboratory experiences or allow hands-on operation of high technology unit processes.

Widespread recognition of the value and "pay back" from operator training (skill enhancement and diversification) simply does not exist at local government levels. Most often, the operator participates in training on his own time, at his own cost, and with little support or encouragement from local elected officials.

Additional flexibility is essential for the states represented by our members to assume the burden of operator training to the extent required to assure conformance with Section 402 permit requirements and this Act. This ASIWPCA recommendation is intended to provide an expanded program framework in which each state is free to construct operator training programs to meet its own needs.

Position L 81-12
1/13/81

## REFERENCE

Section 516(b) Needs Survey - Report to Congress

## ASIWPCA RECOMMENDATION

L 81-12. Amend Section 516(b) to require preparation of a needs survey every five years beginning in 1980.

## HISTORY

Adopted 7/77 by vote of 46-1-2.
Reconsidered 8/19/80 with vote of 27-5-2.
Reaffirmed 1/3/81 by a vote of 35-2-0 as position No. 29.

## RATIONALE

The rate of progress in solving water pollution abatement needs for Publlicly Owned Treatment Works through the construction grants program is not sufficient to justify the "needs survey" every two years. The Association recommends a five (5) year frequency as appropriate.

With recent surveys conducted by USEPA, (1974, 1975, 1976, 1978, and 1980) the principal difference has been the assumptions determined early in the process to establish the basis of the survey. By this time, the array of information using various assumptions should be available for predictive purposes. The large differences in total water pollution program costs between the surveys has not been invalidity of the information or inflated needs, but rather changed or inconsistent methodology and approach. Of what value to the Congress is a needs analysis in which, if every project were completed, the goals of the Act were not attained? In New York, the 1974 needs survey required about 20 man years of program effort while in 1976 the effort was reduced to about 3 man years.

The more recent use of contractors by EPA to complete the survey has continued to place a significant resource demand on the states.

The biennial needs survey contributes information to feed a high stakes numbers game. A longer period between surveys would have a stabilizing effect on the allotment formula used for distribution of construction grant funds to the states.

Position L 81-13
1/13/81

**REFERENCE**

Section 308(c) Inspections, Monitoring and Entry

**ASIWPCA RECOMMENDATION**

L 81-13. Amend Section 308(c) to clearly authorize states with inspection, monitoring and entry procedures approved by the administrator to apply such procedures to point sources owned and operated by the United States.

A direct suggestion is to amend the last sentence of Section 308(c) to read "...in each state (including point sources owned or operated by the United States)."

**HISTORY**

Adopted 7/77 by vote of 48-0-1.
Reconsidered 8/19/80 with a vote of 24-8-2.
Reaffirmed 1/13/81 by vote of 31-2-4 as position No. 43.

**RATIONALE**

In 1977, Congress amended sections 313 and 401 to specifically authorize states to regulate Federal Sources in the same manner that other sources are regulated (unless specifically exempted by the President.) Section 308 was not amended to be consistent, however.

Section 308 provides for the Administrator to require owners or operators of any point source to establish and maintain records, make reports, install, use, and maintain such monitoring equipment or methods, sample effluents and provide such other information as he may reasonably require.

The Act further provides that any records, reports and information obtained under this Section to which the Administrator has access if made public would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such record, report, or information, or particular portion thereof confidential in accordance with the purposes of Section 1905 of Title 18 of the United States Code.

Each state may develop and submit to the Administrator procedures under the law for inspection, monitoring, and entry with respect to the point sources located in such state. If approved by the Administrator, a state is authorized to apply and enforce its procedures for inspection, monitoring, and entry with respect to point sources located in such state except with responsibility to the point sources owned or operated by the United States.

It is not clear in the law whether the confidentiality provision applies to states where they have an approved procedure relating to inspection, monitoring, and entry. Section 308(c) exempts federal installations from meeting the same requirements as other owners or operators of any point source. The section provides for the Administrator to require state owned and operated point sources to meet certain requirements. However, if a state procedure is approved, it does not allow a state to require the same information on facilities owned or operated by a federal agency. The language should be changed to allow states access to confidential material in the USEPA file relative to federal facilities applying to state or local requirements. The language also should be changed to provide federal agencies to meet the same requirements as a state agency unless exempt by the President.

Position L 81-14
1/13/81

**REFERENCE**

Section 302(a) Water Quality Related Effluent Limits

**ASIWPCA RECOMMENDATION**

L 81-14. Amend Section 302(a) to authorize the Governor of a state or his designee (in addition to the Administrator) to initiate the Section 302 process.

**HISTORY**

Adopted 7/77 by vote of 45-0-4.
Reconsidered 8/19/80 with vote 27-3-3.
Amended and readopted 1/13/81 by vote of 36-1-0 as position No. 26.

**RATIONALE**

Through their monitoring and surveillance programs the states are in a better position than USEPA to be aware of and evaluate the impact of discharges which may require more stringent effluent standards than BAT to achieve state water quality standards. Therefore, the Governor of a state, or his designee, should be allowed to initiate the 302 process. The evaluation must consider the impact of failure to attain water quality upon beneficial uses that would occur (public water supplies, agricultural and industrial uses, and shellfish, fish and wildlife protection and propogation and other recreational benefits) and state active involvement can be expected to greatly expedite the process. If the states are to indeed be partners in the implementation of P.L 92-500, this is one area in which such a partnership would be mutually beneficial, and allow the public interest to be served.

Position L 81-15
1/13/81

REFERENCE

Section 311(b)(6) Oil and Hazardous Substance Penalty

ASIWPCA RECOMMENDATION

L 81-15. Amend Section 311(b)(6) to make the assessment of a civil penalty discretionary, not mandatory, with state and USEPA regional involvement in the decision.

HISTORY

Adopted 7/77 by vote of 40-4-5.
Reconsidered 8/19/80 with a vote of 24-8-3.
Readopted 1/13/81 by vote of 31-5-1 as position No. 30.

RATIONALE

This section provides that the United States Coast Guard must impose a fine for each oil spill but is given authority to mitigate the amount of the fine based upon the seriousness of the spill. The statute also provides for mandatory reporting of spills.

The two sections of the act work at cross purposes. The first section requires mandatory reporting. The second section requires that the Coast Guard impose a fine for every reported incident. The effect is to discourage the reporting of small spills because of the resulting fine and paperwork.

The statute was developed in the wake of large marine/estuarine oil spills. Spills of this magnitude have an immediate impact on resources, are difficult or impossible to contain, and are exceptionally difficult to clean up.

The problem of oil spill reporting, containment, and clean up in the onshore oil producing areas may be quite different than that in the marine and estuarine areas. For example, Kansas has over 40,000 producing wells and over 75,000 miles of small diameter pipelines. Consequently, most spills are on land areas, are very small, and are readily contained and cleaned up by the owner.

The state wants to encourage reporting of all spills regardless of size and believes the mandatory fine tends to discourage such action by oil operators despite the reporting requirements.

Position L 81-16
1/13/81

REFERENCE

Section 3005 RCRA Industrial Lagoon Permits

ASIWPCA RECOMMENDATION

L 81-16. The Association support an amendment to Section 3005 of the Resource Conservation and Recovery Act to provide an exemption from Section 3005 of the permit requirements for industrial wastewater treatment lagoons which are currently regulated pursuant to Section 402 of the Clean Water Act.

HISTORY

Adopted 8/20/80 by a majority vote of 39 members present.
Reaffirmed 1/13/81 by a vote of 36-1-0 as position No. 41.

RATIONALE

The Association continues to be troubled by independent pieces of federal legislation which appear to mandate duplicative regulation facilities and invariably leads to conflicting regulation. Such duplicative regulation appears to exist for Industrial Lagoons between Section 402 of the Clean Water Act and Section 3005 of the Resource Conservation and Recovery Act.

The Association believes it appropriate to amend RCRA to recognize an NPDES Permit as sufficient and acceptable in lieu of any regulation pursuant to Section 3005 of RCRA.

Position L 81-17
1/13/81

**REFERENCE**

Section 312(f)(4) Prohibition of Vessel Discharge

**ASIWPCA RECOMMENDATION**

L 81-17. Amend Section 312(f)(4) to place on the Administrator the burden of demonstrating that no-discharge designation is not needed for the protection and enhancement of the quality of specified waters within a state, if the state requests such designation.

**HISTORY**

Adopted 7/77 by vote of 46-1-2.
Reconsidered 8/19/80 with a vote of 29-3-3.
Reaffirmed 1/13/81 by vote of 37-0-0 as position No. 42.

**RATIONALE**

The Association requests that Congress clarify its intent with regard to the administrative criteria established by USEPA to be satisfied prior to the Administrator's approval of a Governor's request for designation pursuant to Section 312(f)(4). The current requirement by USEPA has, for all practical purposes, negated tis provision of the law. No designation requests under this Section have been approved. Many of our member states bordering on the Great Lakes, among others, have been frustrated in their attempts to control the discharge of pollutants from vessels using Section 312(f)(4).

Position L 81-18
1/13/81

**REFERENCE**

| | |
|---|---|
| Section 104(u)<br>Appropriations | Authorizations and Appropriations for Training, Research, and Investigations |

**ASIWPCA RECOMMENDATION**

L 81-18. Extend authorizations and provide multi-year appropriations at levels adequate to support effective training, research and investigations programs under Section 104 in support of the water pollution program.

**HISTORY**

Adopted 7/77 by vote of 49-0-0.
Reaffirmed 8/19/80 by vote of 31-2-2.
Reaffirmed 1/13/81 by vote of 37-0-0 as position No. 3.

**RATIONALE**

The provisions of this section may be divided into three components; i.e., research and investigations, training, and information, each of which is an important component of the overall water pollution abatement effort. ASIWPCA recommends no change in this section other than an extension of previous funding levels and the addition of a provision for multi-year appropriations for program continuity.

Research and investigations, as used in this context, relate to efforts to determine which materials, either presently being used or proposed for future use in our society, pose a problem in terms of environmental considerations, or in increasing instances, a threat to human health. One has only to recall the mercury episodes of the early 1970s when elemental mercury, which had previously been considered as not posing a problem in the environment by the scientific community worldwide, was suddenly found to pose very real dangers to human health. More recently the problems associated with the Kepones, PCB's, PBB's, phthalate esters, Mirex, dioxin and chlorinated organics in public water supplies are additional evidence of the need to continue to research and analyze the many compounds being produced for our modern society which may represent a threat to the environment or human health.

Training is and always has been an important function in the total water pollution control effort. As the number of waste treatment facilities in this country grow, and as the complexity of waste treatment requirements increase, there will be an intense need for highly qualified professional personnel to address the waste treatment problems. The Association points out the need for effective and efficient management programs and qualified personnel to supervise and operate waste treatment facilities. It is imperative that reasonably accurate forecasts of the numbers and qualifications of such personnel be made in order that appropriate systems necessary to treat wastes may be properly designed, built, and operated to meet the objectives of the Act. The State of New York has documented a minimum training need for an additional 275 waste treatment plant operators in FY 1978. The Illinois need in FY 1978 for trained operators is estimated to be 400-500, not including replacements for existing trained personnel leaving the profession, as an estimated 80 new, expanded or upgraded treatment plants begin operation. Training to provide plant operators with requisite skills to assure proper plant operation and maintenance is an increasingly important water pollution control activity which must be recognized by increased flexibility in the allocation of resources within the state programs.

Information, or communication, is an important facet of any operation. And, it is no less important in the nation's water pollution abatement effort. Information generated in the public and private sector is of no value if it cannot be effectively disseminated to the affected party where it may accomplish its intended purpose. Failure to provide information may result in difficulties such as those experienced when certain materials are removed from use, due to the immediate or long term problems they cause in the environment, only to be replaced by ones which may offer a more serious threat or need special precautions in their use. The application of pesticides in food and fiber production, and the disruptions which resulted with the removal of DDT from use exemplifies this point. With the removal of DDT, the agricultural community, if it was to meet the nation's food and fiber demands, was forced to turn to other pesticides which were often much more toxic than DDT. While such substitutes were not persistent, they were toxic in minute quantities and could not be applied in the same manner as DDT. After several growing seasons with increased numbers of fish kills attributable to pesticides, application procedures have been changed, and some of the substitutes are themselves now being removed from use.

Postion L 81-19
1/13/81

## REFERENCE

Section 105(h) Appropriations — Authorizations and Appropriations for Research and Development

## ASIWPCA RECOMMENDATION

L 81-19. Authorize and appropriate as necessary and desirable to support research and development under Section 105.

## HISTORY

Adopted 7/77 by vote of 49-0-0.
Reaffirmed 8/19/80 by vote of 33-1-1.
Reaffirmed 1/13/81 by vote of 37-0-0 as position No. 4.

## RATIONALE

The Association considers the continuation of the program described in this section of the Act (with financial support at levels deemed appropriate by the Congress) to be essential if the goals and objectives of the Act are to be met. Listed below are only a few of the reasons why the Association supports this provision: (1) nonpoint source pollution controls often require the application of best management practices, many of which have not been adequately defined or demonstrated; (2) the need for simple and less expensive waste treatment alternatives for smaller communities; (3) the continued development of new industrial processes with resulting compounds having new treatment needs; (4) the need for improved, demonstrated processes for the removal to toxic pollutants by pretreatment or treatment processes; (5) the need for quantification of cause-effect relationships between discharges and receiving stream quality involving improved monitoring techniques, analytic techniques, and modeling; and (6) the need for improved understanding of the relationships between air and water pollution. Research and development programs in the past have dealt with real world technology needs, often identified in the regulatory effort, and such effort should be continued in the future.

Support for the continued program and funding however must not be interpreted as full Association support for the Research and Development program as currently being carried out by USEPA. The USEPA program must be reordered, perhaps reorganized, to focus available resources on relevant program concerns.

Position L 81-20
1/13/81

## REFERENCE

Appropriation
Section 106(a)

Appropriation for State Program Grants

## ASIWPCA RECOMMENDATION

L 81-20. Appropriate funds under Section 106(a) simultaneously for FY 82 and FY 83, and subsequently provide year-ahead appropriations of Section 106 funds for state programs.

## HISTORY

Adopted 7/77 by vote of 49-0-0.
Updated and Reaffirmed 8/19/80 by vote of 30-4-1.
Reaffirmed 1/13/81 by vote of 34-3-0 as position No. 9.

## RATIONALE

The Association's recommendation is a continuation of the theme developed in the first Section 106 recommendation (Position No. 8); i.e., "give the state and interstate agencies sufficient lead time on availability of federal funds to enhance planning and provide for maximum utilization of resources." Since the Federal Fiscal year was changed to begin on October 1, the state and federal budget cycles are out of phase to a greater extent than previously. Some state legislatures meet biannually. In virtually every instance, budgets included in the program plans prepared under Section 106 do not include any firm federal or state commitment upon which many of the projected activities are based.

In Oregon, for example, the budget for the biennium ending June 30, 1983, is prepared in July of 1980 for submittal to the state legislature in January 1981. Thus, Oregon would need at least 2 year ahead appropriations to have a soundly based budget request for state legislative consideration.

Similarly, with respect to state support, it is difficult, particularly for those states whose legislatures are in session in the spring of the year, to provide accurate information to state legislators on agency fiscal needs. As an example, FY 82 state budgets will be prepared in many instances in the first month or two of federal FY 81 for submission to the legislature in January or February of 1981. Without at least the year-ahead appropriations recommended by the Association to begin with FY 82, the states can provide no firm figures on federal support which is to be considered in the state budgeting process.

Position L 81-21
1/13/81

**REFERENCE**

| | |
|---|---|
| Section 112<br>Appropriations | Authorizations and Appropriations for Training Grants and Scholarships |

**ASIWPCA RECOMMENDATION**

L 81-21. Authorize and appropriate as necessary under Section 112 to support Sections 109, 110, and 111 concerning training grants and contracts, and scholarships.

**HISTORY**

Adopted 7/77 by vote of 48-0-1.
Reaffirmed 8/19/80 by vote of 32-1-2.
Reaffirmed 1/31/81 by vote of 27-3-7 as position No. 6.

**RATIONALE**

The need for assistance to and support of institutions of higher learning to encourage development of adequate numbers of properly trained personnel for the varying levels of responsibility in the nation's commitment to water pollution abatement is recognized by ASIWPCA. We support efforts to provide such assistance.

The need for qualified personnel in increasing numbers becomes more apparent, in these times of increasingly complex water pollution problems, ever increasing multi-media implications, and increased demand for sophisticated treatment systems. In the past few years, the number of personnel available for water pollution abatement activities, particularly engineers, has declined. This trend, which may have been affected in part by lack of financial support for institutions and individuals, must be reversed if the objectives of the Act are to be realized. The water pollution control program is "big business" requiring qualified personnel to provide implementation and management at the local, state, and federal levels. Once these people have been obtained, their qualifications must keep pace with changes in technology.

Position L 81-22
January 1981

REFERENCE

| | |
|---|---|
| Section 208<br>Section 303 | Water Quality Management Planning |

ASIWPCA RECOMMENDATION

L 81-22. Amend Section 303 to incorporate the appropriate elements of Subsections (a) through (i) of Section 208, so as to provide concise coordinated planning authority and requirements that are consistent with available planning resources. Retain Section 208(j) (Rural Clean Water Program) as a nonpoint source construction assistance funding program and repeal the rest of Section 208.

HISTORY

Adopted in January 1981 by a majority of mail ballots cast.

RATIONALE

Planning to meet water quality goals has been a confusing process since passage of PL 92-500 for two major reasons. First, planning authority and requirements are fragmented into at least two major sections of the act--303(e) and 208)--and are not well coordinated. Second, the process of implementing these sections has been frustrated by changing EPA administrative interpretation and guidance, court actions and funding patterns.

The major statewide planning under the framework of Section 303e has lacked adequate funding support to keep it in balance with the areawide planning under Section 208.

While EPA administrative actions in the last few years have eased the problems considerably, the basic lack of coordination in the sections of the act continues to be an obstacle. This obstacle will increase in significance as federal funds for planning are reduced.

ASIWPCA supports merging the sections into one concise, coordinated section so as to simplify administration. Much of the language can be deleted since it no longer has relevance. Flexibility must be provided to assure that planning is undertaken only where necessary to protect water quality. Since planning is a continuing process, the amended act must allow each state to pursue planning on a priority need basis--by area or issue--so as to maximize effectiveness of limited resources.

**UTILITY CONTRACTORS ASSOCIATION OF RHODE ISLAND**

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Angelo D'Errico
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Charles Williams

June 29, 1981

Mr. Chairman and Committee Members:

Please let me first thank you for giving me this time before your Committee, to discuss S-975 and SS-1274. My name is Herbert Capaldi, President of V.F.Capaldi Construction Corporation and our firm has been installing sewer and water pipe lines for over forty years. This year I am also the President of the Utility Contractors of R. I. The organization is comprised of 25 member firms, that either construct utility projects or supply materials and equipment used on these projects. We are a member of ~~a National Association (known as NUCA~~ The National Utility ~~Contractors Association~~), made up of over 2,500 companies working primarily on sewer and water contracts.

We acknowledge the fact that the pending budget has no money for EPA's construction grants program in 1982 - and we agree with the work of this committee in its efforts to seek and support a 2.4 billion dollar allocation to continue the "Clean Water Act" and its goal of ridding our country of polluted water ways.

We feel that zero funding would be a step backward and cause a catastrophic impact through out the nation. What is more important than the water we drink! We feel also that Clean Water is a major national commitment which would also help save our ecology, improve the economy, and provide healthy areas for the pleasure and enjoyment of our citizens.

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I personally would like to see the spending increased from the 2.4 billion dollar level to what had been originally ear-marked 3.3 billion for FY 81. I realize we are basically interested in curtailing inflation and hope to see it fall to single digets in the near future, but even this would erode the value per dollar of these much needed Clean Water projects.

I fear one major change - that is the principle of hand-cuffing the states and local governments to setting the largest per cent of funding for treatment plant work. This may require an enormous out lay in plant facility construction where for a smaller investment in some pipe line work their clean water problem might be solved. Antiquated collectors, and interceptors in some area's are culprets that are adding to the highest amounts of pollution.

We realise our National organization, National Utility Contractors Association presented testimony for your sub-committee on June 24th, so we will attempt to address ourselves to local issues in matters that were not fully covered by Leon Assordorian in his testimony before your committee.

We would like to reiterate that we as members of Rhode Island Utility Contractors Association also strongly feel the issue of state primicy should be of paramount concern to the environmental pollution sub committee as you mark up S-1274.

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We believe the people who run the state environmental program here in Rhode Island best know the things that are needed to clean up existing pollution problems. We would request, therefore, that you not tie the state administrators with a limited set of eligibility criteria. In this regard we are extremely pleased to see your emphasis in S-1274 on funding for CSO's.

We have in our procession a study conducted by the Engineering firm of Castellucci and Galli which shows that by eliminating tidal in-flow and dry weather discharges into our treatment system we can remove 4.5 times the pollutant from Narragansett Bay for one fourth of the cost of building a new plant and making other system improvements According to the study we can eliminate 26,500 tons of pollutant for 70 million dollars by construction of a new waste water treatment facility. The city can eliminate 120,140 tons of pollution by spending some 17.6 million dollars to eliminate tidal inflow and dry weather discharge. We would be pleased to provide the committee with more details on this study.

We believe this emphasizes our points that given local flexibilitie to spend the EPA grant funds on the most effective and efficient method we will clean up our city and provide more pollution controls than having to labor under a stringent set of eligibility requirements.

We realize that our National office has stated that collector sewers should remain eligible for funding, we further realize that some have mistakenly assumed that collectors automatically means growth.

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This is not the case. EPA regulations (program requirements memorandum 78-9) prohibits funding collectors sewers in area's where there is not substantial human habitation. Substantial human habitation is defined as 1.7 people per acre or about one household every 2 acres. We are submitting a copy of the PRM for the hearing records. If the state criterion is the PRM and it is followed, collector sewers would only be funded where they clean up existing pollution problems, such as failed septic systems.

The Rhode Island Utility Contractors Association in no way supports federal funding of collector sewers for growth. If a local community wants to install growth orientated collectors then the community should pay for such collectors. Furthermore, excess reserve capacities should likewise be funded by local communities. EPA should only fund such plant capacity as is needed to treat known needs as of the 1980 census.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 3 1978

OFFICE OF WATER AND
HAZARDOUS MATERIALS

Construction Grants
Program Requirements Memorandum
PRM # 78-9

SUBJECT: Funding of Sewage Collection System Projects

FROM: John T. Rhett, Deputy Assistant Administrator for Water Program Operations (WH-546) John T Rhett

TO: Regional Administrators
Attn: Water Division Directors

## I. PURPOSE

This memorandum supersedes Program Requirements Memorandum (PRM) No. 77-8, on construction grant funding of sewage collection system projects and amends that policy in accordance with P.L. 95-217. This memorandum sets forth guidance for rigorous review of grant applications to ensure that proposed projects meet the established requirements of both P.L. 92-500 and P.L. 95-217, plus the construction grant regulations.

## II. DISCUSSION

Sewage collection system projects may be grant eligible projects under P.L. 92-500 (the Act). Eligibility is limited, however, by Section 211 of the Act which provides for funding of collection systems only (1) for the replacement or major rehabilitation of an existing collection system or (2) for new collection systems in existing communities.

Sewage collection systems are defined in 40 CFR §35.905-19 as:

> For the purpose of §35.925-13, each, and all, of the common lateral sewers, within a publicly-owned treatment system, which are primarily installed to receive wastewaters directly from facilities which convey wastewater from individual structures or from private property, and which include service connection "Y" fittings designed for connection with those facilities. The facilities which convey wastewater from individual structures or from private property to the public lateral sewer, or its equivalent, are specifically excluded from the definition, with the exception of pumping units, and pressurized lines, for individual structures or groups of structures when such units are cost-effective and are owned and maintained by the grantee.

The eligibility of sewage collection system projects is further defined in 40 CFR §35.925-13, which reads:

> That, if the project is for, or includes sewage collection system work, such work (a) is for replacement or major rehabilitation of an existing sewer system pursuant to §35.927-3(a) and is necessary to the total integrity and performance of the waste treatment works servicing such community, or (b) is for a new sewer system in a community in existence on October 18, 1972, with sufficient existing or planned capacity to adequately treat such collected sewage. Replacement or major rehabilitation of an existing sewer system may be approved only if cost-effective and must result in a sewer system design capacity equivalent only to that of the existing system plus a reasonable amount for future growth. A community, for purposes of this section, would include any area with substantial human habitation on October 18, 1972. No award may be made for a new sewer system in a community in existence on October 18, 1972, unless it is further determined by the Regional Administrator that the bulk (generally two-thirds) of the flow design capacity through the sewer system will be for waste waters originating from the community (habitation) in existence on October 18, 1972.

The above sections of the EPA regulations implement Section 211 of P.L. 92-500.

Section 36 of P.L. 95-217 amends Section 211 of P.L. 92-500 to preclude use of the population density criterion in PRM 77-8 as a test of grant eligiblity for collector sewer projects but permits use of the criterion for evaluating alternatives. A one household per two acre density criterion may be used only for identifying less closely populated areas where individual or other small wastewater treatment systems are likely to be more cost-effective than collector sewers and thus must be evaluated in detail if collector sewers are proposed for such areas. Such use of the population density criterion should assist with and simplify the cost-effectiveness analysis for collector sewer projects.

All treatment works funded under the Construction Grants Program must be cost-effective to comply with the requirements of the Acts. Treatment works are defined in Section 212 to include sewage collection systems. EPA cost-effectiveness requirements are found in 40 CFR §35.925-and in Appendix A to 40 CFR, Part 35.

Public disclosure of costs is a fundamental prerequisite for all grants projects, including collection systems. Program Requirements Memorandum 76-3, "Presentation of Local Government Costs of Wastewater Treatment Works in Facility Plans," August 16, 1976, requires that cost information be presented at all public hearings held on facility plans after January 2, 1977. However, public hearings were held on many collection system projects prior to this date. Special measures are necessary to ensure the public is aware of the cost implications of collection systems prior to their approval.

The following policy is to be followed in preparing future grant applications for collection system projects. This policy supplements all existing Agency regulations and policy statements. It provides guidance for more rigorous review of grant applications to ensure that proposed projects meet the established requirements of the law and regulations. Compliance with this policy will help to assure that only grant eligible and cost-effective collection system projects are funded by EPA.

## III. Policy

EPA policy on the funding of sewage collection systems is as follows:

### A. Substantial human habitation

New collector sewer projects are eligible for funding only in a community in existence on October 18, 1972, with sufficient existing or planned capacity to adequately treat such collected sewage. A community qualifying for Federal grant assistance to construct a collector sewer system may be a geographic or jurisdictional area that is smaller than the jurisdiction of the municipality applying for the treatment facility grant. The Title II regulation states in Section 35.925-13 that a community would include any area with substantial human habitation on October 18, 1972. The bulk (generally two-thirds) of the flow design capacity through the sewer system is to be for wastewaters originating from the habitation exsting on October 18, 1972.

The Agency policy is that areas to be served by new collector sewer projects must meet the requirement for "substantial human habitation." Habitation existing as of October 18, 1972, should be evaluated block by block or, where typical city blocks do not exist, by areas of five acres or less to determine if it is substantial. Collector pipes designed primarily to serve blocks or five acre areas without substantial human habitation as of October 18, 1972, would not be eligible for grant assistance.

### B. Cost-effectiveness

New collector sewers must be proven in the facility plan to be necessary and cost-effective in addition to being eligible under the "substantial human habitation" and the two-thirds rule requirements.

New collector sewers should be funded only when the systems in use (e.g., septic tanks or raw discharges from homes) for disposal of wastes from the existing population are creating a public health problem, contaminating groundwater, or violating the point source discharge requirements of the Act. Specific documentation of the nature and extent of health, groundwater and discharge problems must be provided in the facility plan, Where site characteristics are considered to restrict the use of on-site systems, such characteristics, (e.g., groundwater levels, soil permability, topography, geology, etc.) must be documented by soil maps, historical data and other pertinent information.

The facility plan must also document the nature, number and location of existing disposal systems (e.g., septic tanks) which are malfunctioning. A community survey of individual disposal systems is recommended for this purpose, and is grant eligible.

Where the population density within the collection system area is less than 1.7 persons per acre (one household per two acres), collector sewer projects shall be considered non-cost-effective unless a severe pollution or public health problem is specifically documented and collector sewers are shown to be clearly less costly than any of the alternatives for sparsely populated areas as cited below.

In addition, the facility plan must demonstrate, where population density is less than ten persons per acre, that alternatives are less cost-effective than new gravity collector sewer construction and centralized treatment. Such alternatives are cited in the previous Administrator's memorandum of December 30, 1976, subject: "Encouraging Less Costly Wastewater Facilities for Small Communities."

The alternatives to be evaluated include the following:

--measures to improve operation and maintenance of existing septic tanks, including more frequent inspections, timely pumpouts and prohibition of garbage grinders.

--new septic tanks.

--holding tanks and "honey wagons."

--various means of upgrading septic tanks, including mounds, alternate leaching fields and pressure sewers plus ponds or other small treatment facilities.

--other systems to serve individual households or a cluster of households. Such systems include, for example, wastewater separation, water conservation and recycle systems where feasible.

The facility plan, where applicable, must examine alternatives such as limited sewer service for a portion of a community. For example, septic systems work very well in many small towns except in one isolated area such as a business district where open space for adequate on-site disposal is not available.

The collection system shall not afford capacity for new habitations or other establishments to be located on environmentally sensitive lands such as wetlands, floodplains or prime agricultural lands. Moreover, the proposed collection system must conform with approved 208 plans and air quality plans, Executive Orders on Wetlands and Floodplains, and Agency policy on wetlands.

### C. Public disclosure of costs

All projects, including collection systems, on which public hearings were held after January 2, 1977, must comply fully with the requirements of Program Requirements Memorandum 76-3 prior to approval.

Agency policy is to ensure public disclosure of the costs of any collection system projects where a public hearing was held on or before January 2, 1977. Such disclosures shall take the form of a prominently published notice in a local newspaper, and the cost is grant eligible.

The notice shall include the estimated monthly charge for operation and maintenance, the estimated monthly debt service charge, the estimated connection charge and the total monthly charge to a typical residential customer for the new collection system being funded and any other associated wastewater facilities required. Such associated facilities would include new treatment capacity needed to handle the flows from the new collection system.

The charges may only be rough estimates, and may be presented as a range of possible costs when major unknowns exist, such as whether or not substantial parts of the project are grant eligible.

## IV. Implementation

The States are to be advised of the issuance of this amended policy at once. All pending and future grant applications for collection system projects or projects containing collection systems are to be reviewed for compliance with this policy.

## V. References

A. Sections 201, 211, 212, P.L. 92-500 and Section 36 of P.L. 95-217.

B. 40 CFR §§35.905-19, 925-7, 925-13, Appendix B.

C. PRM 76-3, "Presentation of Local Government Costs of Wastewater Treatment Works in Facility Plans," August 16, 1976.

D. Memorandum to Regional Administrators from Russell E. Train, "Encouraging Less Costly Wastewater Facilities for Small Communities," December 30, 1976.

KIM ALLSUP ASSOCIATES
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TESTIMONY AT SENATOR CHAFEE's JUNE 29 HEARING
ON WATER POLLUTION CONTROL FUNDING
COMMUNITY COLLEGE OF RI

MAJOR POINTS

1. According to rumor among EPA and state agency officials , funding for public participation programs may receive serious cuts in the years ahead. We have also heard that EPA rules regarding public involvement may be weakened.

2. Cutting public participation funding and weakening public participatio programs would be penny wize and pound foolish. Here are just a couple of reasons and examples which show why public participation programs are a good investment:

   a) People who participate in programs of this type are naturally inclined to focus on finding ways to reduce wasteful spending. For instance, a recent public workshop which was part of the City of Providence Water Pollution Abatement Program came up with 16 recommendations. Over one third of these related to ways to reduce spending.

   b) Another nearby public participation program, according to a planner who worked on the program, ended up saving one million dollars in construction costs. The public participation program itself cost $100,000. As investments go, a 10 to one return is pretty good.

   c) One of the reasons public participation is such a good investment for the government is that most of the work in these programs is the free advice of volunteer participants.

3. In closing we ask that the Senator review EPAs plans to be sure that adequate, but not excessive, funding and strong regulations are preserved.

**Ecology Action**
**For Rhode Island**
189 MATHEWSON ST., PROVIDENCE, RHODE ISLAND 02903 (401) 274-9429
the people" . . . shall be secure in their rights to the use and enjoyment of the natural resources
of the State with due regard for the preservation of their values . . ."
Article 1, Section 17, R.I. State Constitution.

July 10, 1981

Hon. John H. Chaffee
5229 Dirksen Senate Building
Washington, D.C. 20005

Subject: Comments on proposed amendments to the municipal construction grants program of The Clean Water Act.

Dear Senator Chaffee:

Onbehalf of Ecology Action for Rhode Island (EARI), the Clean Water Committee would like to thank you for this opportunity to have the following comments entered into the record of U.S. Senate Environmental Pollution Subcommittee Hearing held June 29, 1981 in Warwick, Rhode Island.

The proposed amendments to the munciple construction grants program of the Clean Water Act of 1972 offered by yourself and the Reagan administration are directed towards developing incentives to encourage muncipalities to build efficient, ecconomical functioning wastewater treatment plants by increasing their financial stake in these facilities. EARI supports this cost effective approach to meeting water quality standards set forth originally by the Clean Water Act with the following comments and suggestions regarding the proposed program changes.

Grant Elible Categories(Sec.201): EARI supports the Chaffee amendment rather than the Reagan admenment since it appears to be more flexible in that a special $\$2x10^{6}$ allocation has been recommended for CSO facilities. CSO's, although expensive, they have been shown to be a cost-effective approach to the maintence of water quality in older cites where CSO's represent the primary method of handeling of sanitary sewage and storm water runoff into ecologically critical bays and estuaries. This allocation is extremely important to states such as Rhode Island where fishing and tourist industries are dependent upon the maintence of water quality for survival.

Federal Funding Share(Sec.201): EARI supports the Reagen admendment since it appears to be more flexable in that the Governor of the state has the authority to reduce federal funding share based on the state's ability to assume financial responsibility of the various catigories within the project.

Allotment Formula to States(Sec.205): Both the Chaffee and the Reagan admendments propose allocations of federal grant money to states based on water quality needs rather than population. EARI strongly supports this concept because smaller states such as Rhode Island, with a large water-body to population ratio, could stand to receive an increase in federal allocation to maintain water quality. EARI would like to see the Chaffee admendment adopted as it further recommends that funding allocations for FY84-85 be given highest priority to those states whose projects demonistrate the greatest impact upon the improvement of water quality. This in effect would force the individual states to annually reevaluate their ongoing construction grant program as to its cost effectiveness and to its consideration of alternatives. A note of caution needs to be interjected in regards to this proposed admendment. The overall goal is very important to improving water quality, however, in practice it could be difficult assess improvement in areas where baseline data is difficult to obtain.

Determination of Priorities(Sec.206):EARI strongly supports the Reagan admendment in that it stipulates that the states must give highest priority to those projects which provide for the greatest effect on water quality which will directly benefit communities of urban industrial concentration. These are critical areas because they are generally areas of greatest population density and areas where water quality problems are generally acute. Futhermore, these areas generally have a poor tax base from which funds could be made available to help correct problems affecting the water quality.

Reserve Capacity(Sec.204): EARI supports the concept that no federal funding for reserve capacity construction costs be built into a proposed budget since this would force the muncipality to assume fiscal responsibility for maintence of a functional system by adopting a system of user charges as originally required by the Clean Air Act.

Federal Reimbursement(Sec.206): EARI strongly supports the Chaffee admendment which will allow for the continuation of federal reimbursement of state pre-financing of Construction Grant Programs. Without this availability of funds it will be extremely difficult, if not impossible, to get the state voters to approve bonds to finance such programs. In addition, already approved programs such as the Providence Water Pollution Abatement Program will be in jeprody without federal reimbursement.

Modified Permit Compliance for Effluent Limits(Sec.301): EARI supports the Chaffee proposal to extend the deadline to 1988 since the probability of reduced federal funding for construction grant programs is likely.

Engineering Warranty and Liability(Sec.204): EARI applauds Sen. Chaffess's effort with this admendment to assure the quality of construction and performance of sewage treatment facilities. However, we would suggest that the following addition to this proposal with the intent of trying to reduce or prevent any long term costly litigation that could potentially arise. We propose that Sen. Chaffee's admendment should not only make the engineers responsible for the design, construction and initial operation of the treatment facility, but also for the on-the-job training of personnel who will eventually be responsible for the operation and maintence of the facility. This would encourage more accountability on the part of the engineers which inturn should result in better design, construction and operation of sewage treatment facilities.

Innovative and Alternative Technology(Sec.202): EARI supports both the Chaffee and Reagan admendments designed to encourage the muncipalities to select ecconomical and efficient alternatives to convential treatment. Innovative and Alternative technology is extremely important to the continual upgrading of water quality and has been encouraged and indorsed by organizations such as EARI for a long time.

Sincerely,
Catherine Rowlands

Catherine Rowlands
for the Clean Water Committee

Paul Klinkman
299 Wickenden St.
Providence, RI 02903
June 29, 1981

This testimony concerns itself with a very questionable report published by the Government Accounting Office and the consequences of publishing that report.

The study concerns itself with the effectiveness of the nation's wastewater treatment facilities. I hope that other testimony has gone over that report more fully. In case no such testimony has been submitted, I must mention that the GAO report is coming under deep criticism. The State of California couldn't believe the allegation that 90% of its municipal wastewater treatment plants. California ran its own study. The State found only 10% of its plants not functioning properly. That's an 80% discrepancy.

The State of California is very open about how it conducted its study and about which municipal wastewater treatment plants aren't functioning properly. The GAO, on the other hand, refuses to disclose how it acquired its information. An informal survey of New Hampshire cities indicates that the GAO discrepancies should be larger than 80% in some states.

What are the political and financial consequences of saying that two plus two equals five, or six, or whatever a government study can get away with?

First, common sense says that the end does not justify the means. The GAO report can't help to clean up the government; now the government has to clean up the GAO.

Second, the credibility of the Government Accounting Office is the credibility of the government. The government wants to change the funding rules to try to eliminate past excesses in spending. But, with this faulty report issued, the government's purpose is seen as not trying to be efficient—only playing a political game. As a political game the funding rules can be expected to change capriciously this year. Why won't they change capriciously next year too, or in any year? It's as if we are playing a game of chess and after a dozen moves we're told that the game is checkers, or monopoly.

Rhode Island was told that it could get matching funds if it could float a bond issue. The people of Rhode Island consequently passed an $7.7 million dollar bond issue. Now the federal government wants to switch the rules on this very large transaction. One of the new rules is that the state must spend all of its money before it becomes eligible for federal funds. In other words, because we were able to raise $7.7 million dollars we have to spend $7.7 million dollars. After we spend the $7.7 million dollars there is a good chance that all funding will have dried up under the next set of rules. You want us to trust Congress for the matching funds. You want us to trust Congress after issuing that GAO report. Question: what do you take us for? Answer: $7.7 million dollars.

One business axiom is "High Risk, High Profit". When the funding rules seem capricious, prone to change and politically motivated, contractors are forced to either get out of the market or to raise their prices. Municipalities have to manage their money also. Now they have to shy away from potentially valuable improvements because the funding might disappear. The simple issuance of the GAO's erroneous report may have forced contractors to raise their prices or get out of the market. It can be argued that the GAO caused the U.S. to waste an untold amount of wastewater treatment funds.

We must be concious of the fact that some conservatives want pollution control in general to be defunded. Seen as a political gesture, the GAO report makes sense. The clean water program is to be a political ritual sacrifice. The government will take the clean water money, buy most of the state of Utah, and turn Utah into a "national sacrifice area". The point is to illustrate what the government is basing its policies on: The sacrifice of anti-pollution programs, the sacrifice of Utah, the sacrifice of the truth. I find this a very strange government to live under.

Paul Klippman

To: U.S. Senate Subcommittee on Environmental Pollution
Regarding: The Clean Water Act - Construction Grants Program - Senate Bill #1274
From: Janet Wiener, 7 Avon Street, Providence, R.I. 02909
Date: June 29, 1981

In 1979 a citizen's suggestion that we could end overflows of stormwater contaminated sewage by simply not flushing during rain storms made the "Providence Journal". For the unitiated, this idea presented a moment of hope that the people could solve this terrible problem - and without spending any money! But the engineers of RI'S 208 Water Quality Planning Program wuickly set us straight. They explained that most of the contamination comes from solids that settle in the sewer lines at times of low flows and are washed into the rivers in the "first flush" of stormwater through the pipes. In the past year engineers carrying out preliminary design work (under the construction grants program) on a treatment facility for the worst single overflow on the Providence River have found that this overflow can contribute 12 times the solids and oxygen demand found in dry-weather sanitary sewage.

I strongly support Senator Chafee's proposal in S 1274 that Congress allow federal funds to be used to abate the combined sewer overflow pollution of bays and estuaries that plague the older coastal cities of the United States.

# MUNICIPAL WASTEWATER TREATMENT CONSTRUCTION GRANTS PROGRAM

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**MONDAY, AUGUST 10, 1981**

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION,
*Santa Fe, N. Mex.*

## OPENING STATEMENT OF HON. PETE V. DOMENICI, U.S. SENATOR FROM THE STATE OF NEW MEXICO

Senator DOMENICI. The hearing will come to order. I want to introduce the other Senator that's here with us. It's our privilege to have Senator Jim Abdnor here.

We felt we ought to hear what New Mexicans had to say about the Sewer Construction Grant Program that's within our committee's jurisdiction. I want you all to know how much we appreciate Senator Abdnor's being here. He will be part of marking up a new bill on this subject. So we're going to continue the issues here today which fall within the jurisdiction of the Environment Public Works Committee. The construction grant program, the focus of the hearings this afternoon, has a long history. It is one of the largest Federal programs that we have in this country, surpassed in size only by the Federal Highway program. It was first established in 1956 with the Federal Water Pollution Control Act amendments providing Federal grants to States, municipalities, intermunicipalities, and interstate agencies to fund 30 percent of the costs of providing up to $250,000 to construct new sewers.

It was not, however, until changes to the act were made in 1972 that the grant program grew in size and scope. The goal of the 1972 amendments and law was very clearly stated: "To eliminate discharges of pollutants into navigable waters by 1985 and to restore and maintain the chemical, physical, and biological integrity of our waters."

That was indeed an auspicious goal, we were going to do all that by 1985. The 1972 amendments authorized $18 billion to pay up to 75 percent of the total project costs to municipalities to assist them in constructing sewer treatment facilities. In 1977, the Congress authorized an additional $24.5 billion for fiscal years 1978 through 1982, continued the $18 billion funding from the 1972 act, that is that portion of it that was not spent, and provided a supplemental appropriation of $1 billion for that new and expanded year of 1977.

Since 1973, EPA has awarded $30 billion to over 11,000 communities. That money has gone for the planning, design, and construction of waste treatment facilities and interceptors in order to meet the ambitious clean water standards set into law with the 1972 amendments.

Now, this program is at a crossroads; Congress must reauthorize it this year and is presently considering major reforms. The President has stated, and in no uncertain words and terms, and Congress has agreed in the reconciliation bill that no additional funding will be available for the program in the next fiscal year unless reforms are enacted. What's brought us to this point?

In assessing the successes and failures of the program, Congress and the administration have identified serious problems with the program—from the planning and design stages to the actual operation of the facilities. Responding to 18 General Accounting Office reports detailing deficiencies in the program as a result of audits, Congress is suggesting sweeping changes. There is an ongoing exchange of ideas on what additional needs must be taken care of and what additional changes have to be made.

There is a growing concern in this country and in the Congress over the need to reduce government spending. Any program with the magnitude, scope, and indeed complexity of the construction grant program requires close scrutiny to insure that the expenditures are being made wisely. To date, Congress does not have the confidence that the program is, in fact, working well. Furthermore, as we see a reduction in Federal funds for all programs, Governmentwide, it is even more imperative that those funds be directed to where the greatest reduction in pollution results at the lowest cost.

The GAO in its series of reports on this program has cited a number of reasons for concern. I want to state them because our first and second panel will be people who have been participating in this program. Since the GAO is the investigative arm of the Congress they might share their views on precisely what they found wrong with the program. But among the things that the GAO found:

(1) The construction of secondary treatment facilities that have been undertaken and in many instances they were not always needed;

(2) The lack of justification for many advanced waste treatment facilities;

(3) Pollution from nonpoint sources often presenting more problems than municipal discharges;

(4) The high cost of hooking up to a new system;

(5) High operating and maintenance costs;

(6) Use of untrained operators who do not understand complicated plants even after we have completed them, built them, and paid for them;

(7) Resistance to using less costly but perhaps viable alternatives to secondary treatment; and last but not least:

(8) Long delays and the length of time it takes to complete facilities.

The failure of newly constructed facilities to work properly appears to be of particularly alarming proportions. Of the 242 plants sampled in 10 States by the GAO, 87 percent were in violation of a permit and 31 percent were considered to be in serious violation.

I'm not entirely sure that the legislation we will be discussing today addresses all of these concerns. I'm also not entirely sure that the legislaion will address all of New Mexico's specific water quality problems. That's why I look forward to your testimony. Most of the witnesses have been presented with the administration's proposal and with the present draft of what we will refer to at various times today as the "Chafee bill" that's merely named after the Senator from Rhode Island who chairs the subcommittee that will be principally involved. But I repeat, that the subcommittee has not yet marked this bill up and the entire committee will do it soon, which means that even at this late date it is subject to significant alteration and the hearings are to help us with reference to trying to zero in more on New Mexico and rural States.

I think you all know that the Environmental Protection Agency will be speaking for the President and his program. They are working with this committee and we're very pleased that Dr. John Hernandez who is presently the Deputy Administrator of EPA is here and I think his time will permit us to handle his testimony in the following manner. Everyone from New Mexico that is scheduled to testify will testify first. That will give Dr. Hernandez every opportunity to listen to our complaints before he testifies and, to be honest with you, it will give me better questions to ask him when he testifies.

I would now yield to my good friend Senator Abdnor.

## OPENING STATEMENT OF HON. JAMES ABDNOR, U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA

Senator **Abdnor**. Thank you Mr. Chairman, you've pretty wel covered what we're striving to do.

I'm not a member of the subcommittee, but I'm very interested in the bill and I have reason to believe that many of the problems that you'll be hearing about today probably will apply to South Dakota as well. This is a major program and I personally think that the Congress, including ourselves, were a bit overly ambitious in what we expected to accomplish a few years ago. Now we are backing up and taking another look at this and seeing how we can make it more realistic. I'm looking forward to the testimony this afternoon. Thank you very much.

Senator **Domenici**. Thank you, sir. Lets go to the first panel. Mayor Phil Lovato from Taos. Please join us, Mayor. Max Ortega, the mayor of the village of Questa, is here. I understand that Governor Harry Early of Laguna is going to testify instead of Delfin Lovato; is that correct? Why don't you join the panelists, please. Since your problems are slightly different than the other four, we'll let them go first and you'll be the fifth on the panel but we would like you there. Dayton Molzen, engineer, town of Bernalillo; village of Los Lunas; city of Belen; village of Central; village of Bayard. Ken Needham, utilities director for the city of Las Cruces. Ken, are you here?

All right. We have some basic ground rules as to how we're going to handle this? We will try to keep each witness to about 5 minutes and then go back through for questions and supplementaries; is that all right?

Mayor, why don't you proceed? Pull that mike up closer so they can all hear you.

## STATEMENT OF HON. PHIL LOVATO, MAYOR, TAOS, N. MEX.

Mayor LOVATO. Senator Domenici, Senator Abdnor. I have the honor to present at this hearing a statement on the proposed 1981 amendments to the EPA's construction grant program pending before the Senate Environment and Public Works Committee.

My remarks will focus on problems facing small communities in northern New Mexico and, more specifically, in the town of Taos and the Taos Valley.

I offer the following comments and suggestions on behalf of the town of Taos.

Section 2 of the Chafee bill, which you talk about, indicates that after October 1, 1981, States and local communities will have to provide funding for engineering and design phases of publicly owned facilities and waste treatment facilities. It further provides that in the event a step 3 construction grant is awarded, the Federal share of steps 1 and 2 will be reimbursed to the grantee.

Senator, step 1 feasibility studies are intended to determine and establish the needs to meet the Clean Water Act criteria and the needs of the community. If the need is established and it involves large capital expenditures, I offer the suggestion that the Federal share for steps 2 and 3 be officially committed when step 1 has been completed and approved by EPA. This would assure implementation of the facility on a reasonably set schedule basis. Small municipalities, like the one I represent, for the most part do not have the financial resources to tie up funds for studies which may be put on the shelf with no reasonable assurance that the project may be implemented.

Section 9—I take particular and strong objection to this section and to section 8 of the administration's bill, S. 975.

The provision that after enactment of the 1981 amendments no grant shall include any Federal funds for meeting the needs of population beyond that included in the 1980 census penalizes growing areas. It perpetuates a continuing number of underdesigned waste treatment facilities. It fails to recognize long-term and orderly growth and future needs in many cases for regional waste treatment plants.

The town of Taos is a case in point. The 1980 census reports a population of nearly 3,400 people. However, the town of Taos is the main trade and service center for an estimated 8,000 people living in the adjacent unincorporated communities within the Taos Valley. In addition, it is estimated that as many as one-quarter of a million visitors visit our area annually. We like that. All of this, however, creates a substantial burden in the town's waste treatment facilities as well as all the other facilities that we have.

The town's present treatment plant was constructed in 1972 with similiar limitations as prescribed under the proposed amendment. By 1976, we were exceeding the permitted levels. If no additional growth is considered, we will be on another design-expand-construct cycle by 1985.

I point out the following:

The projections for the town's corporation area indicates the population may reach between 7,100 to as high as 21,000 by the end of the end of the century—19 years from now.

The projections may or may not be realistic. However, the records show that the water usage which affects our waste treatment facility has increased annually. A further substantial increase is projected in the next 10 to 20 years.

In addition, as unincorporated communities in the Taos Valley adjacent to the town of Taos grow—and they are growing—a regional waste treatment plant makes a great deal of sense and could be a reality in the near future. Two water and sanitation districts have been formed in the Rancho de Taos and El Prado areas adjacent to the town of Toas. Discussions by Officials of the three legal entities sanitation districts in the town of Taos indicates a general and informal agreement that we will join efforts toward implementation of a regional plant. The cost effectiveness and ecological balance seem to point toward a location of such a plant at the site of the presently underdesigned town of Taos plant. Therefore, the redesign-expand-construct cycle appears a certainty if the 1980 census criteria were to be used.

I offer the suggestion that the language under the sections limiting Federal participation to the 1980 census population be modified to take care of situations such as I have noted.

All other sections in the proposed amendments of the Clean Water Act present a fair, equitable and reasonable policy with which our municipality feels comfortable.

Thank you for the opportunity to testify and I respectfully request my statement be made part of the official record of this hearing.

Senator DOMENICI. It will be made a part of the record, Mayor. I thank you for your excellent statement.

Mayor LOVATO. Thank you very much, Senator. If I may, the city clerk from the city of Espanola handed me this and asked me to hand it to you for the record if I may.

Senator DOMENICI. Sure. Max, for the village of Questa. Nice to have you here.

Mayor ORTEGA. Nice to see you again, Senator. I haven't seen you in quite a while.

## STATEMENT OF HON. MAX ORTEGA, MAYOR, VILLAGE OF QUESTA

Mayor ORTEGA. Senator, I don't have much of a statement here.

Senator DOMENICI. That's fine, go ahead.

Mayor ORTEGA. My community is a small community which I guess you know pretty well. Over the last 10 years, we tried to qualify for an EPA grant.

Over the last 10 years, Senators, we've had Moly-Corp located there which has employed 400 to 500 people. Naturally, these additional people are getting to be a concern to the community. We've been impacted by traffic, housing problems, and many other problems. We believe that we have to have the proper equilibrium so that our community can deal with its problems. We've been concentrating a little bit too much on the sources.

Funding has been one of our problems. We did try to get grants from EPA like I mentioned before. In the last 2 years, we've been able to get funding through the CAC Council, the Community Assistance Council.

Now, we have some money and I think that if everything goes according to the rules, I think that we're going to be able to start constructing this rural system within the next year. Another thing that makes it impossible for small communities like Questa to qualify for grants from the Federal Government is population requirements or they say it's going to be too expensive for the people to afford.

Mr. Senator, we've tried in every way. We issued bonds for the resources but whatever assistance we're getting from the State is not enough and we would really appreciate it if the rules within the EPA can be changed to help the smaller communities, within 1,000 or 2,000 population.

Senator DOMENICI. Now, didn't you just recently get something from EPA?

Mayor LOVATO. No. We haven't qualified for the EPA. The only thing we got Senator, we borrowed 140, it's a loan from FHA. That was all we were able to qualify for.

Senator DOMENICI. Have you had to hire an engineer to help you over the past few years to try to find out——

Mayor LOVATO. Yes. In fact, we've had engineers employed since I've been the mayor which is over 10 years now. We've been real lucky. In fact, I think we already spent over $100,000 out of the community money just for this alone. If reports were submitted to EPA back to the last 2 or 3 years or the last 2 years I would say it would show this.

Senator DOMENICI. Who is the chief engineer that has been working with you?

Mayor LOVATO. Turney & Associates. They've been employed by for quite a few years.

Senator DOMENICI. We have them scheduled to testify.

Mayor LOVATO. I think Mr. Turney is here or somebody from the Turney firm.

Senator DOMENICI. Is somebody from the Turney firm here? Weren't they scheduled to appear. I think you ought to go check because I think we need a little background on what the community is like.

Thank you very much, Mayor.

Mayor LOVATO. I have a little statement here.

Senator DOMENICI. It will be made a part of the record. We'll pick them all up together.

Dayton, you're here as a professional engineer but you also have been the engineer for the town of Bernalillo; village of Los Lunas; city of Belen; village of Central; and village of Bayard. Does that mean you are their town engineer now Mr. Molzen.

Mr. MOLZEN. Yes, sir, that is correct. Officially designated as their city engineer.

Senator DOMENICI. All right.

## STATEMENT OF DAYTON F. MOLZEN, ENGINEER, TOWN OF BERNALILLO, VILLAGE OF LOS LUNAS, CITY OF BELEN, VILLAGE OF CENTRAL, AND VILLAGE OF BAYARD

Mr. MOLZEN. I want to take the opportunity to thank you, gentlemen for asking me to speak. We've been involved in the waste water treatment business in the State of New Mexico for 21 years. My comments are going to be addressed to the amendment and how it affects the various municipalities that we deal with in the State. In addition to the one's you mentioned, Senator we also provide services to Espanola, Carlsbad, Loving, Las Cruces, and the city of Albuquerque. So, these will also be apropos to those communities too.

Senator **Domenici**. All right.

Mr. **Molzen**. One of the things that concerns me the most I believe, is the fact that the new bill calls for reimbursement on steps 1 and 2 or facility plans and plans and specifications after a construction grant is made of the community.

One of the things that bothers me is that how this reimbursement will be handled. In my recent conversations with EPA's region VI staff, they've indicated that it would be necessary that even though EPA was not participating at those periods of the project, it would be necessary that all the requirements would be met before they would be eligible for reimbursement. I don't know how this could be covered in the bill, but if it could be, I think it should be addressed, at least instructions should be given to EPA to make it perfectly clear whether or not all of these items such as minority business, participation, public hearings, citizens advisory groups, whether all of these requirements would be necessary in order to obtain reimbursement from EPA at the time they received the construction grant.

Senator **Abdnor**. I don't know for sure what's behind this funding steps 1 and 2 until it is underway. It could be because many of steps 1 and 2 were done and never went any further.

Mr. **Molzen**. In my opinion, Senator, that's very probable.

Senator **Abdnor**. This happens quite often. We have had these abuses throughout the entire United States. Cities and towns are hurt by it just like the mayor said. In the past few years the biggest cities built beyond their needs, now we wonder how many years it will be before they utilize what they built into it and frankly, we just don't have any money. I guess money is the major problem here, we've been putting in a $1 million a year so I guess we're just trying to see how we can do with less dollars and probably get greater efficiency, but unfortunately in doing so, we jeopardize innocent cities and towns that are really trying to do a good job. That's probably what's been behind this.

Mr. **Molzen**. Yes, sir, I believe that is correct. I understand there's a considerable amount of money that's been allocated but never completely utilized because many municipalities have had ongoing projects for 5 or 6 years that have never been realized. So, consequently that money is not available to someone who might be used to it. I think my only concern is that the money, if it's going to be reimbursable, the communities know how they have to qualify for the reimbursement.

Senator **Domenici**. Well, you heard the mayor of Taos say, and I assume he was speaking for his town, let's just follow it through. He's saying "OK, I don't know that I really like this up-front money that we've got to come up with, that's steps 1 and 2, engineering and design, but if we do, there should be assurances that they will fund the project," is he not saying the same thing as you said?

Mr. **Molzen**. Yes, sir, I believe that's what he's saying.

Senator **Domenici**. I think there's two problems here. You're raising one, that is if you finish, you will know what the game plan was and all the cards would be on the table and you would know your exact status. But he raised another, how would we be able to promise the mayor of Taos that if he went through steps 1 and, spent up-front money for professional services and public involvement, how could we promise him he would be funded?

Mr. MOLZEN. Right now I think the only way he can be even assured that the funding might be forthcoming is through the State's priority listing and I think this would be the responsibility of the State in this case to keep them advised as to when they might possibly receive funding and in a case like Questa and some of the other very small communities, they're not major polluters and consequently they have a difficult time getting on the priority list.

In other cases, some of the small municipalities do a very excellent job of operating their present facilities even though they may be not meeting the standards as proposed by EPA, they're actually penalized by doing a good job of operating what they have because they are not polluters. It seems as though the poorer job you do of treating your sewage, the more you pollute the stream, so consequently that moves you higher on the priority list and you get funded sooner. To me it seems to work in reverse.

Senator DOMENICI. For sure though, if we go with this up-front payment of a local nature, somebody should use it as an incentive for determining which projects ought to be funded.

Mr. MOLZEN. Yes, sir, I believe so.

Senator DOMENICI. I don't read that in the bill; do you?

Mr. MOLZEN. No, sir, I don't. The way I read the bill, there's absolutely no funding for planning or design until you come up on the priority list for construction and then your refunding. What you've already spent out of your pocket, I think it says exactly that.

Senator DOMENICI. What I'm saying is we have to build in, if I understand it correctly perhaps Senator Abdnor will agree, we can't have everyone advancing planning and design money even on the basis that they will get reimbursed when step 3 is forthcoming because we'll have more people paying out up-front money than we're ever going to fund.

Mr. MOLZEN. Right.

Senator DOMENICI. So somebody's going to be determining whether Questa should have been wasting its money on that.

Mr. MOLZEN. Well, as the mayor said, Senator they might sit there for 10 years waiting for construction money and by that time, their planning is out the window.

Senator DOMENICI. Why don't you go ahead.

Mr. MOLZEN. Several other things I'd like to address. I think section 9 determines that the project would be funded on the basis of 1980 population. I feel that there should be some method of determining what percentage is going to be funded. I think it's absolutely ridiculous in everyone's mind to think that we would design a plan for 1980 population. We're going to be designing a plant for 20 years into the future into the year 2000. We need some method of determining what ration is going to be used to fund the facility for 1980. It can't be a straight-mind function because as an example, a pump that produces 25 percent more capacity doesn't cost 25 percent more money, it cost like 10 or 12 percent more. I think there needs to be some method. I suppose you can use a ridiculous method of designing two facilities, one for 1980 and one for 2000 and see what the difference in cost was and that would be how it was funded. That's being facetious. But we do need some method of determining how it will be proportioned between 1980 and the actual cost of facility as constructed.

Senator DOMENICI. Well, is that a big change involved?

Mr. MOLZEN. Yes, sir.

Senator DOMENICI. How have you been doing it?

Mr. MOLZEN. Presently, we've been allowed approximately 25 percent for the future growth. Based on the present day population or the population at the time the planning was commenced or the design was commenced plus 25 percent for future growth.

Senator DOMENICI. OK. I think that everyone ought to understand the basic intention when we started all of this it was to clean up, as I understand it, correct me if I'm wrong, was to clean up an existing pollutant that was dirtying up our water. So, it was not intended to take care of future needs, but rather to clean up a present situation and then we had another study done nationally on even broader needs than just the present and we got these great big figures of how many hundreds of billions. Now we're caught in where do we go now situation. Do we hold it to cleaning up the past, or do we add some growth to the facility and you are merely saying there's got to be a practical answer to this; is that right?

Mr. MOLZEN. Yes, sir, that's correct. I'm not saying that there should be a certain percentage for future growth but we need some method of determining how it is going to be proportioned because we can't design for 1980 and hope to use it in the year 2000 and I think the comments, the staff comments regarding the bill indicated that very thing but we need an equitable method of prorating the reimbursement or the grant share to the municipality.

Section 10 regarding brand names which has been changed to allow the use of only one brand name rather than two or more, I think is excellent. The manufacturers will probably complain about this, but I think this is one of the greatest things we can come up with in this bill.

Senator DOMENICI. What does that mean?

Mr. MOLZEN. Well it means that if we want a certain piece of equipment, we're able to specify that piece of equipment or an equal type of equipment without going into a very long detailed materials and manufacturing specification to make sure we get that piece of equipment. This is something new that's never been, as far as I know, in the history of government procurement has never been used where you can only specify one piece of equipment everyone has had to have their fair chance, they build it in their garage they had to have a chance to build it and this gives the engineer a chance to design on a piece of equipment which may be patented and we'll do the best job and he doesn't have to worry about trying to come up with a couple of other items to give everyone a fair share. He can do the best job with the equipment available not saying that someone else can't qualify but it gives him the chance to design around a certain piece of equipment.

Senator DOMENICI. Well that's good if you're honest.

Mr. MOLZEN. True.

Senator DOMENICI. OK. But you as a professional engineer think that's a constructive situation?

Mr. MOLZEN. Yes, Sir I certainly do.

Now, I'm going to get into one that has caused all sorts of consternation and that's section 11 which requires the engineer or the engineering firm to be responsible for assuring that the design and constructive facilities meet the designed requirements and limitations. I want you to know at this point I'm 100 percent in favor of this and I think any reputable engineer in the State of New Mexico will be in favor of it. However, there are a couple of limitations that should be recognized. I personally would rather see this extended to 5 years rather than 1 year provided that EPA funds are available to allow the engineer to go back two or three times a year and train new personnel or change the method of operation Many of these plans can be upgraded merely by an operational change rather than new construction and probably the engineer is the only one that has got it here in the back of his head that knows how to do it and many of the engineers do it on their own right now. They really care about what they are doing and they'll go back at no cost to anyone mainly because there's no way to pay them and upgrade that facility operationally—periodically.

I think this is an excellent thing and I'd like to see it expanded if possible. Many times personnel change, unfortunately there are people who operate waste water treatment plants until recent years when the people who are not fit to do anything else and were sent out to treatment plant because of the very nature of the product they were treating. These people have been upgraded, they've been trained, but if they had to leave the employ of that city and take up some other profession, it means training someone all over again and you don't find them on every street corner or hitchhiking down the freeway. They are hard to find and they must be trained and they can be trained to fit that particular facility so much the better.

Senator DOMENICI. Do you know whether the professional engineers of this country have a position on this provision?

Mr. MOLZEN. They are in favor of it with several exceptions. I believe they offered testimony in favor of it but they are a little concerned. Originally it came out that they were to be held totally liable. One of the things that I want to mention is that if they are to be held responsible they must be given a totally free hand in the design of the facility. Too many times State and Federal employees are prone to offer advice and say it must be done this way or we can't fund it. Because the way you want to do it, you're building in a safety factor. Well, unfortunately we have to build in safety factors because of human error periodically.

We like to have a safety factor in case a portion of the facility is down for maintenance we can still meet a certain degree of treatment. But we must be given a free hand in the design to be able to do this without outside interference.

Further, we have to be provided with a reasonable operating budget or the facility municipalities responsibility provide the funds necessary to properly staff and operate the facility or absolute necessity. The engineer can't do much if he doesn't have any money or people to operate it. I think these are probably the two main items that the engineer has to be assured of. He does have money and staff and he also has the designed freedom to give it the municipality.

Senator DOMENICI. Under the Chafee bill and the administration proposal owing them money for 1 year is part of the grant isn't it?

Mr. MOLZEN. Yes, sir, that's something new and before we had start-up services that in many times it was 2 or 3 days and the engineer walked off and never looked at the facility again.

Senator DOMENICI. Just the Chafee bill, not the administration?

Mr. MOLZEN. Yes, sir, right. Now, I'm saying I think every engineer provided he is given these assurances will be happy to come back over a period of 5 years, not every week or so but every quarter or so.

Senator DOMENICI. But we have to provide to O. & M. for 5 years too?

Mr. MOLZEN. I think you can set up a reasonable amount not talking about very much money, maybe, as far as the engineers fees, maybe $1,000 or $1,500 a year is all you're talking about.

I think another minor item is that at the end of that year the owner and operator of the treatment facility is required to sign a statement that the facility is meeting the effort of limitations. I think that in this case this probably will be a procedural item but I think you need some type of an arbitrator. I can see the engineer and the city administration getting crossways and the city refusing to do it. It says that somebody has to make it monitarily correct and that leaves only the engineer in my opinion and I think you need some sort of an arbitrator. It could be a reasonable administrator or what have you, but I think this should take place.

I guess the last part of my statement is, I'm greatly concerned about the Corps of Engineers taking over the construction of the construction management of the whole program. In my opinion, and this is only my opinion, but I think you can find many engineers who agree that this is extremely wasteful, the Corps of Engineers is not staffed to handle this type of construction in my opinion, they're not experienced in this type of construction.

Senator DOMENICI. What is the present role of the Corps of Engineers?

Mr. MOLZEN. The Corps of Engineers presently as of January 1 is under contract to the Environmental Protection Agency to manage the construction phase, all portions of the construction phase, of the EPA Clean Water Act. Their administration of the act. Presently, the Corps of Engineers makes inspections, they handle all paper work for reimbursement. The engineer and the municipality still initiate it all, but the Corps of Engineers gives it the final approval and sends them on to EPA for action.

Senator DOMENICI. All right. What's wrong? Are we doing something broader in this bill?

Mr. MOLZEN. No; you're not doing anything at all in the bill to prevent it and in my opinion, the EPA should be prevented from contracting out this kind of work. I think prior to this year we had some Corps of Engineers inspections. We had also EPA inspections. We had State environmental group inspections and we seem to do pretty well. All of a sudden, we had the Corps of Engineers involved and they have five-plus people administering what was done without them prior to this year. I just think it's extremely wasteful. There is an old saying about an elephant being a mouse designed and constructed by the Corps of Engineers and I'm beginning to believe it. It's very facetious but their regulations and requirements are so foreign to EPA's that it's almost impossible to work with the Corps of Engineers.

I have a list of problems that other engineers as well as myself are being faced with because of the corps' actions and I'll be happy to enter those into the record also. Thank you, gentlemen.

Senator DOMENICI. Senator, shall we proceed?

Senator ABDNOR. Please do.

Senator DOMENICI. I have a few more questions, but let's have Mr. Needham, utilities director for Las Cruces.

## STATEMENT OF KEN NEEDHAM, UTILITIES DIRECTOR, CITY OF LAS CRUCES

Mr. NEEDHAM. The city of Las Cruces welcomes the opportunity to make comments on the proposed amendments to the Clean Water Act. These amendments come at a very critical time for the city and could have a significant impact on wastewater treatment works for Las Cruces.

Las Cruces has been involved in the construction grants process under Public Law 92–500 since the early seventies with modifications to the present plant being funded under combined grants from the old Public Law 660 and Public Law 92–500. Two grant extentions were received since the original project, so the city has had an active grant until as recently as last month when our lastest project was completed. Regretfully, construction performed under the grants program has not been successful in that the plant is still not producing an effluent to meet NPDES permit requirements, and the Federal Environmental Protection Agency and the State environmental improvement division are undertaking enforcement action against the city. The city is also concluding facility planning which is funded in part by a Federal grant. This facility plan reveals that a new plant should be constructed to correct deficiencies at the present plant and provide for projected growth. The cost of the new treatment facility is estimated at $20 million in 1981 dollars with another $7 million in 1981 dollars required for interceptor construction. Las Cruces is, therefore, projection that $27 million is required to construct treatment works necessary for the next 20 years. We have projected that the new plant can be put in operation no sooner than 1989 under the present construction grants program if funding is made available on a timely basis. We also project that inflation will significantly increase the cost.

It is from this point of view that we have evaluated the proposed amendments to the Clean Water Act and offer the following comments. The first comment is regarding the amendment to section 204(a)(5).

The proposed amendment limits Federal participation in the construction of new waste water treatment facilities to a percentage of the cost necessary to meet 1980 requirements. This means that there will be no Federal participation in capacity reserved for growth. The additional capacity required for growth must, therefore, be funded by the State and local governments. Applying this to the Las

Cruces situation and comparing it to the present construction grants program, we find the following:

Under the present construction grants program, using the cost of a facility at $27 million: The Federal share would be approximately $20 million; the State share at 12.5 percent would be $3.5 million; and the local share at 12.5 percent would be $3.5 million.

Under the proposed construction grants program and using the 55 percent which comes after 1984 when our plant would likely be funded, the Federal share at 55 percent and we allocated the cost for 1980 requirements. We used the direct ratio that is, 5–8.9 the 5 million gallons being the 1980 requirement, the 8.9 being the requirement for growth. We encountered problems similiar to that described by Mr. Molzen, so we chose this method of doing them. So, we consider if this were to be the method of allocating the cost that the Federal Government would participate in the $15 million of our treatment plant.

The Federal Share of that would be then $8.2 million; and the State and local share would be approximately $18 million.

We assume that perhaps the State might split the State and local share 50 percent as they do now, so the city of Las Cruces would have to fund $9.5 million under this amendment compared to the present $3.5 million.

Increasing the State and local share by $10 to $13 million or approximately 150 percent will have a very significant financial impact on the local community.

Communities that are experiencing rapid growth. Las Cruces and other New Mexico cities would be particularly affected by not funding for growth. We therefore cannot support this amendment and recommend that the capacity for growth remain grant eligible. And then concerning amendments to section 202(a), paragraph I and section 204, paragraph 5.

Reading these two proposed amendments in relation to each other raises the question of whether the Federal share includes funding for interceptor reserve capacity. We, again, recommend that reserve capacity for growth remain grant eligible.

Then concerning the amendment to section 204(a)(5), this amendment provides for local funding of facility planning and design phases with reimbursement to come when the grant for construction is received. In the case of Las Cruces, the facility plan/environmental impact statement costs are about $250,000. The design cost is estimated to be about $1.6 million. If State funds are not available and the local government is required to fund the planning and design phase, sewer rates would have to be raised substantially to provide the necessary capacity. the bonding capacity. Since facility planning and design must follow Federal guidelines, which significantly increase the cost of these phases, we recommend that Federal participation in the planning and design phases continue. Concerning Federal guidelines for facility planning, we recommend a review of the guidelines with consideration to streamlining the process. To meet Federal requirements, the Las Cruces facility plan will take 18 to 20 months. We consider 6 to 8 months with a corresponding decrease in costs to be more reasonable.

Senator DOMENICI. Aside from the fact that the Federal Government pays a significant portion of the cost of the facility, what other interest should the Federal Government have? Why are their guidelines causing significant increases?

Mr. NEEDHAM. I think the most significant increase in time is due to the public participation program requirements. There are several hearings that are required and there are several time requirements that these hearings be advertised and 30-day requirements when I think essentially the engineer is doing nothing. He's waiting for the information to be disseminated to the public and then for the hearing to be held.

We did a calculation about that, about 10 months ago, that revealed the cost of our treatment plant was inflating about $5,000 a day while we were waiting for these public hearings to be held. We feel that streamlining the process is something that should be looked at. If it doesn't take as long, the cost can be considerably less.

Senator DOMENICI. Are you suggesting that a municipality like Las Cruces would not have any public input or hearings if we didn't have it in these guidelines?

Mr. NEEDHAM. Not at all. I think just the nature of local government is the one of public participation.

Senator DOMENICI. So, you're suggesting that one expediter is to leave that up to the grantee to decide either on their own or under State law the nature of the hearing?

Mr. NEEDHAM. Yes, sir.

Senator DOMENICI. Go ahead.

Mr. NEEDHAM. And then amendment to section 202(a) paragraph 1.

This amendment deals with a reduction in Federal funding from the present 75 percent to 65 percent through 1984, then to 55 percent thereafter. Each 10 percent decrease would increase the State and local shares about 2.7 million 1981 dollars. To offset the effect of reducing Federal funding, we would expect a corresponding reduction in Federal regulatory requirements.

Concerning the proposed amendment to section 204(c)(1): This amendment would require the engineer to continue his relationship with the grantee for 1 year after plant startup for the purpose of supervising operations and training operators. It would further require the owner and operator of the treatment works to certify to EPA that the treatment works meets the design specifications and effluent limitations; and if such certification cannot be made, requiring the correction of deficiencies at other than Federal expense. This raises some concerns based on our experience with our present plant.

As previously noted, the plant was modified under a Federal/State grant to meet the requirements of Public Law 92-500. The plant has never consistently met discharge requirements. The State and agencies place all responsibility on the city, but the design criteria used by the city and its engineer was, to a great extent, dictated by the State and approved by the Environmental Protection Agency. The environmental assessment prepared for the project cautioned against the dictated design but was apparently ignored by the approving agencies. The result is that Las Cruces has a plant that produces and effluent of no better quality than the old plant, yet at several times the cost of the old plant, with the prospect of spending additional money to avoid facing enforcement action. The point is that the regulatory agenices should not be allowed to dictate criteria, then hold the cities and their engineers responsible for failures. All agencies involved should be held responsible for their actions.

Then concerning the proposed amendment to section 216. We agree that priority should be given to projections and we quote from the amendment "which demonstrate that the significant public health or water quality benefits will be achieved and in particular to projects having the greatest effect on the improvement of water quality." The question is: Where does this put the projects that have lesser effects on the improvement of water quality when it comes to enforcement action? The present New Mexico priority rating system favors the preservation of those surface waters which are the most suitable for recreation and support of desirable aquatic life. The result is that projections on the upper and middle Rio Grande are funded ahead of those on the lower Rio Grande, yet those of us on the lower Rio Grande must meet the same deadlines and be subject to the same enforcement action. We project the result of this amendment could be the city discharging to high-quality waters will receive funding and those of us discharging to lower quality waters will receive enforcement action. We recommend a provision whereby enforcement action also follows the priority list.

Amendment to section 304(d). We strongly support the amendment that and I quote:

> Facilities such as oxidation ponds, lagoons, and trickling filters shall be deemed the equivalent of secondary treatment when the owner or operator of a publicly owned treatment works makes a showing satisfactory to the administrator, that, taking into account local climate, the limited population served, and assurances as to the operation and maintenance of such facility, water quality will not be adversely affected by deeming such facilities as the equivalent of secondary treatment.

We estimate that this provision will reduce the cost of our proposed treatment works by at least $2 million and the annual operation and maintenance cost by at least $100,000.

Additionally, we would like to propose the idea of Federal reimbursement of local funds expended on grant eligible items when the expenditure is made prior to the time the Federal grant is available. To explain this concept, consider the case of Las Cruces. It is likely that Las Cruces must locally fund some improvements to our treatment works to provide facilities to handle increasing flows between now and 1989 when the new plant may be built. We propose to construct parts of the new plant which would benefit us now and which could be integrated into the new facility. Our proposal is that communities should be credited for that cost at the time the grant is made. This is reasonable since that part of the plant would be grant eligible if construction was delayed until grant funds were available. This would encourage local communities to expend funds for interim solutions.

A "catch 22" implication of this is that if local funds are expended and a water pollution problem is corrected, the locality would likely receive a lower priority for grant funding since priorities are normally assigned based on the existance of water pollution problems. Perhaps adjustments could be made so as not to jeopardize the Federal grant by spending local funds.

That concludes our remarks and we do appreciate the opportunity of making these comments.

Senator DOMENICI. Would you provide us with suggestions on how we would diminish our mandatory requirements as the percent of the grant goes down? If somebody together a list of what you might call exceptional or unnecessary Federal expenditures and you told us some in your statement.

Mr. NEEDHAM. I believe that municipalities and consulting engineers would be happy to provide such a list to develop those recommendations we provided.

Senator DOMENICI. I want to thank you for your testimony. I think we may, as we move through the next 2 or 3 weeks, get back with you for some additional ideas. I think it's obvious that we're not going to be able to fund at the same level. We're not going to be able to fund as many projects as before and there's even a serious doubt as to how much longer the Federal Government will continue funding until we end this program that should be paid to everybody.

What would Las Cruces be doing today if they didn't have this program?

Mr. NEEDHAM. If we didn't have this program, we would probably still have the old trickling filter plant that we replaced under this program and I note from the amendments that trickling filters will probably be coming back, so, we may be back where we were 10 years ago.

Senator DOMENICI. Mr. Molzen, would you, as an engineer, answer that question on a more broadly based experience level?

Mr. MOLZEN. Yes, sir, I think the next proposals for providing treatment rather than demanding a certain degree of treatment are much more reasonable than the previous regulations. As an example, the city of Albuquerque's effluent going into the Rio Grande is much better than the Rio Grande water itself above where it's discharging. In years past that hasn't been true, but now it is true. The same is true at Bernalillo. Bernalillo is producing a much better effluent than the water that's coming down the Rio Grande so, this appears to me to be a little bit ridiculous to provide the degree of treatment that is better than the receiving water.

Senator DOMENICI. Why is the receiving water not cleaner?

Mr. MOLZEN. For many reasons. Nonpoint sources of pollution such as animals, the elk in the mountains, the trout in the stream, the chemical fertilizers, the weed gross, leaves that get in the stream, algae growing in the Cochiti reservoir, it's a many number of things that can cause it.

I think that if we have to treat the effluent to the point where it's as good or slightly better than the receiving water, but I don't think it should be treated three or four or five times better than the receiving water just because someone feels that that's what should be done with it. It can be done, so we should do it.

Senator DOMENICI. Do either of you read into this new proposal that we're not going with one set way of cleaning it up rather than going back over accepted practices and even looking for innovations? Do any of you read into it that EPA is going to let you get by with dirter effluent than they are now. Are they going to set the same requirement of you?

Mr. MOLZEN. Senator, that's the way I read it. I don't believe that they can allow the use of trickling filter plants or lagoons and expect the degree of treatment that they're getting today with activated sewage or some of the other advanced treatment processes.

Senator DOMENICI. Therefore, that exhiliration that you've just expressed about that technology is probably rather short lived.

Mr. MOLZEN. Probably. Yes, sir.

Mr. NEEDHAM. Senator, I believe that this one proposed amendment would at least open the door to giving consideration to receiving water when setting the standard that the municipality must meet. I would like to see that be made much more specific though in the amendment.

Senator DOMENICI. All right. Governor, I'd like to hear from you now.

## STATEMENT OF HARRY EARLY, GOVERNOR, LAGUNA PUEBLO

Governor EARLY. Yes, sir, Senator Domenici, Senator Abdnor, and committee members. It's a pleasure to be here this afternoon. I have a 3½ page statement I'd like to read into the record.

With me from the All Indian Pueblo Council are Mr. Frank Tenorio, the secretary for AIPC, Mr. Ron Martinez the lieutenant governor of Acoma Pueblo and Mr. Steve Juanico, secretary of Acom Pueblo. The floor will represent the All Indian Pueblo Council.

Mr. Chairman and members of the Senate Committee on Environment and Public Works, thank you for giving the All Indian Pueblo Council the opportunity to present testimony on Senate bill 975, and related amendments designed to revise and extend certain provisions of the Federal Water Protection Control Act.

My name is Harry Early, I am the Governor of Laguna Pueblo. I come before you today to present the concerns of the Pueblo leadership in regards to the protection of our water resource from pollution and depletion.

It is important to note at the outset that water pollution, water shortages, and related problems are not problems of muncipalities, cities, State government, or small communities alone. Indian tribes in New Mexico and throughout the southwestern States face these same problems. The protection of our water resources from pollution as well as depletion is a responsibility we must all share.

Our review of Senate bill 975, indicates that while the proposed legislation attempts to provide the necessary assistance to small communities and municipalities, Indian communities are apparently not eligible for funds authorized by the act. The unmet needs of Indian tribes in water quality control, as well as water treatment facilities is well documented. We strongly recommend that Indian tribes be specifically mentioned in the bill and a set-aside be established for funding of Indian projects.

Senate bill 975 addresses the growing problem of small communities in meeting waste disposal and treatment facilities. As you are aware, the lack of adequate planning and in some cases, the lack of uncontrolled growth of non-Indian communities adjacent to or within Indian reservation boundaries is of great concern to the tribal governments. Provisions should be provided within Senate bill 975 for both non-Indian and Indian communities, which will allow them water and sewer needs well into the future so that adequate consultation and planning can be realized by all parties concerned and thereby eliminating the difficulty with easements and rights-of-ways.

Mr. Chairman, at this time, I would like to highlight several important water issues which I strongly feel should be addressed by this committee. These issues directly or indirectly affect all of the Pueblo tribes and as I pointed out at the outset, may also have grave results for the State as a whole, unless we give them proper consideration and priority.

First, the Pueblo of Laguna and Acoma, as well as the non-Indian communities in close proximity to coal and uranium mining activities within Valencia and Cibola Counties, are vitally concerned about the quality of water and the uncontrolled use of our water resources by mining activities and other developments. We strongly feel that safeguards must be initiated and enforced as strongly as possible so that the pollution of the water supply for the Indian communities, as well as our non-Indian neighbors, will not be polluted or depleted to the point of extinction. Our efforts to get water pollution studies through the Indian Health Services (IHS) have been largely unsuccessful; as such, we strongly recommend that Senate bill 975 and related amendments provide for this.

Second, the Pueblo leadership as well as non-Indian organizations continue to place serious questions with relation to depletion of the water resources as a result of geothermal development in and about the Jemez Mountain range. As you know, the Jemez Mountain not only serves as a highly religious area for Pueblo and other Indian tribes, but is also the source of water flow to the south and west. Expert studies that have been conducted on behalf of the Pueblo Tribes clearly show that the water uses from the proposed geothermal activities in the Jemez Mountain will pollute and deplete the water necessary and vital to the users in the Jemez watershed. The Department of Energy (DOE) continues to totally disregard the impact upon the water rights of the Pueblo Tribes and the impact upon the religious practices in the area of these developments. We strongly request and recommend that this committee investigate the use of Federal funds for a project which is a gross infringement upon the water and religious rights of the Indian tribes, to whom the Federal Government has a trust responsibility.

Last, Mr. Chairman and members of the committee, the Pueblo leadership, as well as the Indian people in general, are becoming increasingly concerned with nuclear waste disposals and the grave results which may be realized by future generations. We are concerned with the Los Alamos facility and the existance of nuclear waste that is presently being dumped in the canyons and arroys that surround that research facility. The rain and moisture which eventually flows through these areas drain into the Rio Grande, which is utilized by Indian and non-Indian communities for irrigation and will eventually affect the water tables which provide water for home consumption. We have learned that fish which have been caught at Cochiti Dam, for example, have contained traces of plutonium. While the levels of contamination appear at a harmless level, we cannot overlook the drastic implications.

This, Senator Domenici, is the end of my statement. The Pueblo Laguna will also furnish to the committee at a later date a statement of our own and I thank you for the time to represent this testimony.

Senator **Domenici**. I would just call this to your attention and you might have your staff people check into this and communicate with my office. I would assume, speaking now on the the water sewer grant program—not the other issues that you've raised—that the definition of a municipality in the amendment might not be broad enough for you. I would assume, for the record, it be similar to section 502 Subparagraph 4, but if your staff wants to get into that and communicate that with us, I would assume that would be the way.

Governor **Early**. Yes, sir, Senator. I believe very strongly that in this day and age, we still have that government-to-government relationship which we hope the Federal Government will continue to support even at this time as the part of this bill here.

Thank you, Senator.

Senator **Domenici**. Thank you very much, Governor. Now, for the panel. Do you have anything else you want to contribute to the record?

Mr. **Molzen**. Senator, you mentioned earlier that the GAO had said that approximately 81 percent of the treatment facilities constructed were out of compliance. I wish you'd ask your staff to check into how many of those are paperwork deficiencies by consulting engineers council and the National Society of Professional Engineers. They were quite concerned about this, too, and they did some checking and found that a very large number of these were paperwork deficiencies and not deficiencies in design or construction or operation and merely had failed to file a report and consequently were listed as deficient.

Thank you, sir.

Senator **Domenici**. Thank you very much.

Is Mr. Lee Wilson here? If you'd state for the record your name, address, and occupation. I think we have a statement of yours and will make it a part of the record. If you can summarize it for us, we would appreciate it.

## STATEMENT OF LEE WILSON, HYDROLOGIST, LEE WILSON & ASSOCIATES

Mr. **Wilson**. Thank you, Senator. I'm Lee Wilson; I'm a resident of Santa Fe. I have a doctorate in geology, specializing in environmental science. My familiarity with the construction grants program relates to the environmental program and assessments.

I very much appreciate the opportunity to provide this testimony. I would like to go on record of certainly favoring the philosophy behind the amendment because certainly the construction grants program is in need of significant reform.

I, too, interpret section 20 which allows for trickling filters and other such facilities such as relaxed water quality standards in some situations and as an environmentalist I do believe that is an appropriate approach to take because there are many cases where super-advanced treatment is not needed when less rigorous treatment accomplishes environmental protection without the energy use, operational difficulties, and other resource commitments that are acquired for typical advance secondary treatment.

I also very strongly endorse section 11 of the amendments as they were passed which calls for the requirement of funding engineering services during the year startup in the past; in fact, I heard you go farther in that regard. A lot of the communities in the State do need this tax restitution that is not otherwise readily available.

Terms of possible places where the amendments, in my opinion, would be expanded, I find in these amendments the same basic approach toward groundwater as has been in the entire legislation from the Public Law 925 through this date and that is that groundwater really is either not mentioned at all or kind of shows up in passing. When you say "clean water act," you're really saying "clean surface water act," and I think it's time that this becomes Clean Surface and Ground Water Act.

If you agree with that concept, then I do have some specific suggestions about the amendments. Section 18 requires provision of water quality standards. Section 17 requires that priority lists be based on water quality benefits. Now, New Mexico already uses ground water in its interpretation of language like that but I'm not sure how much status that approach has. I'd certainly like to see the amendment very clearly specify that ground water standards and ground water protection are an appropriate basis for ground water list.

Senator **DOMENICI**. I hope Dr. Hernandez is listening to that. I very much like your opinion. Tell me why is it important in New Mexico.

Mr. **WILSON**. Well, it's important in New Mexico because so many of our communities wastewater discharges are to ground water. It's only a relatively small number that are to very high quality surface water. There are a large number that are to very high quality ground waters. I think these wastewater plants need to be fairly high up on the priority list. I would go further and specifically address section 12 which is the funding formula and I'd like to make sure that when the funding is based on the potential for benefiting water quality that the potential for benefiting ground water quality is included in that allotment form. Otherwise, in New Mexico, once we have corrected about three treatment plants that I can think of on a strictly surface water basis, there will be lots of other States that will be getting a lion's share of the appropriations and New Mexico will have lots of water quality problems relating to waste water discharges and they will be mostly related to ground water. It may be we will not be getting our fair share.

Senator **ABDNOR**. Are you talking about what seeps into the ground water?

Mr. **WILSON**. Yes.

Senator **ABDNOR**. And pollutes the drinking water?

Mr. **WILSON**. Drinking water survey sources indicate there are many municipalities in the State that have in their municipal water supply affected from this type of pollution.

Senator **ABDNOR** How do you prevent it?

Mr. **WILSON**. Prevent it with properly designed facilities as in a surface water plant by increasing the treatment and changing the discharge practice to some extent.

Senator Abdnor. How far do you go into setting ground water standards?

Mr. Wilson. Well, New Mexico has ground water standards which are basically very similar to the drinking waters.

Senator Abdnor. How expensive does that get?

Mr. Wilson. It is not that expensive. In most cases, it involves land application which is close to the treatment and so in most cases it's less expensive as a treatment technology then what is normally required for surface water.

Senator Domenici. Well, with reference to the whole goal of cleaning up the water, it's obvious that you're right, but this time, we aren't talking about cleaning up the river's water, polluted river water can be harmful to people but certainly the underground water that's used by people as part of the whole system here is extremely important. We don't make the same distinction that they do in the Mississippi or Potomac which is used for drinking water, too. Your only concern, as I see it, would be that we not distinguish arbitrarily the priorities based upon the surface cleanup, when ground water cleanup could be just as important or more so. Ultimately we'd be afraid we wouldn't get our share of the funding because we accomplished that priority?

Mr. Wilson. Yes, sir. I also say that there are plenty of other States that are not yet up to New Mexico's speed with regard to protection of ground water. These types of changes would provide a positive incentive for other States to take a similar approach.

Senator Domenici. I think Senator Abdnor is asking the right question; if we choose to do this and we are in a resource-short period of time with a scaled-down national program, are we inviting from our fellow Senators the question: Why do you want to expand its scope when we don't have enough money to do the other?

Mr. Wilson. Well, I think you already have in the EPA programs a very strong safe drinking water act which has a focus on ground water, RCRA has a focus on ground water also. I think EPA is expanding and will be in the future spending much more money to protect ground water. I think it's in the same focus that this act would be concentrating on whichever water resources required protection.

Senator Domenici. Won't it accomplish the same thing and make it a little easier for us if we merely said that if the State chooses to do it that way and the the ground water protection is aimed at same maximum health safety goal, that would do it for us, wouldn't it? We wouldn't have to make it national?

Mr. Wilson. That would solve New Mexico's particular problem. I would say that in making it national is because of the several other acts relative to ground water protection.

I think we will have them all in that direction. Most of my other comments are very specific to the sections of the act and I think they're covered fairly well by the written testimony. I will make just a few of those orally right now.

Senator Domenici. Let me ask you a question. Based upon the scaled-down needs test and assume that we're using the 1980 census, I'm certainly not going to be an advocate of that, but, let's assume that, by changing to included ground water, are we increasing New Mexico's dollar needs under "needs test"?

Mr. **Wilson**. I would maybe defer that question to someone from EID who is more familiar with the exact funding form and how it works, if I may.

Senator **Domenici**. All right. You may go ahead.

Mr. **Wilson**. I would, speaking to the specific sections then, I would just support what I think you've already heard that Federal funding for, and in particular, I think step No. 1 may be appropriate because I think communities need a very positive incentive to do effective waste water planning. Many of these communities will be years away from getting any Federal reimbursement, if they get any. I'd like to see at least step No. 1 funded in part.

In regard to section 4 of the amendments as approved, collection lines are, as I understand this amendment, would be no longer grant eligible and with respect to New Mexico, there are situations where there's a definite environmental and water quality benefit to the construction of such facility and I think in those cases Federal funding is certainly appropriate. I'm thinking in particular the many established agricultural communities in the valleys of New Mexico where you have, usually you have judicial Hispanic settlements, sometimes Indian settlements, they occur to very high density and they use cesspools and adequate designs, septic tanks, and drain fields.

The communities usually need some type of collection system, some type of innovative alternatives involving better onsite treatment.

Senator **Abdnor**. Let me ask you a question on that subject. Haven't we become a little carried away over the past years of what we said they ought to have and needed to have? Shouldn't we be looking back and saying maybe some of the old ways were useful?

Mr. **Wilson**. Well, there are plenty of onsite alternatives which we work in these communities.

Senator **Abdnor**. We didn't seem to know much about them or we got carried away from them on the previous act.

Mr. **Wilson**. Well, especially under Public Law 92–500, perhaps some hidden incentives for the heavyweight approach to solving problems that didn't need it. The amendments, the Clean Water Act as it was amended tried to get away from that with the innovative alternatives program. That really hasn't caught on that well because I think the engineering profession and the communities were kind of reluctant to go out on a limb and I do have a comment on that program.

I still do feel that there are, but eliminating collection lines from eligibility completely, we have a lot of small communities, it's not just in New Mexico but I'm thinking particular here which may need some collection system in order to solve an existing public health problem—public health problem that may have existed over the last few years. I'm not talking about growth or subdivisions or anything like. All I would suggest is that collection lines be considered grant eligible for an already established community if and where we show there is a definite public health benefit.

Senator **Abdnor**. All right.

Senator **Domenici**. Do you have some language describing that kind of collection?

Mr. **Wilson**. If you want to actually consider it I would be glad to provide that.

Senator **Domenici**. I agree with you. I think we should have that kind of flexibility based upon the fact that the State has a fixed allocation and no more anyway. At least we ought to have collectors that are aimed at cleaning up an existing problem, is that your point?

Mr. **Wilson**. Yes, Sir.

Senator **Domenici**. Does that in some way relate to ground water?

Mr. **Wilson**. Yes; very much ground water issue.

Senator **Domenici**. OK. Do you have anything else?

Mr. **Wilson**. Yes; on the innovative alternatives program, since you're speaking of possibly EPA being out of the grants business at some future time—in fact the innovative program really hasn't caught on. I would like to see at least some resources devoted toward making that program more flexible with research research demonstration program so that the bandwagon is really started and when EPA does step back from the construction grants program, we really do have a well established set of innovative alternatives that communities can use.

I pushed innovative alternatives on a number of the communities that I've been working with and so far succeeded in getting only one to really seriously consider it and it's because of inexperience that can't go to another facility and say "gee, it works." And say by 1985-86 have some of these facilities in the ground working I think 20 years from now would be a lot better off.

Senator **Domenici**. Like what are they?

Mr. **Wilson**. Well, one that's one of my favorites is an agriculture process of several types of at least offer the prospects of being relatively energy efficient. The problem is the designing experience is virtually nil with the kinds of agriculture processes that are needed to meet the kind of energy standards that we now have.

Senator **Domenici**. Are there others?

Mr. **Wilson**. The onsite alternatives and small community wastewater alternatives which EPA has done a lot of excellent work on it but which I still don't see coming out in facilities plans.

Senator **Domenici**. So you're suggesting that for some small amount of money we go ahead and fund the pilot, take the risks, so there will be something there for somebody to see?

Mr. **Wilson**. Right.

Mr. **Domenici**. Is that expensive?

Mr. **Wilson**. Over 20 years, no. In terms of the benefits of reduced treatment cost of the country as a whole over 20 years——

Senator **Domenici**. What kind of set-aside is needed for that?

Mr. **Wilson**. I think it's not so much set aside as I think EPA itself, the agency's innovative program needs to be beefed up and made a lot more aggressive. It's really still a very secondary part of a whole of construction grants processes. To give you an example, the one place where I had an innovative project where we were treating the project involved drinking water, treating waste water produce drinking water which is very radical from past practices. the city is willing to have drinking water put back in its own aquaduct for recycling. EPA looked at that and said that's not really renovative because the process is used in some community and other processes is used something, the fact that no one had ever tried this before as a package, I really didn't impress them at all, it tended to be unresponsive.

Senator DOMENICI. I didn't intend, in asking for set-aside, to talk about just beefing up the existing program. What if we took a small amount of money and charged EPA to go out and ask some communities if they wanted to go to the top rung and get this? We wouldn't be talking about very much money, would we?

Mr. WILSON. No; we're not and I think that's the kind of concept I'm suggesting not to use the set-aside but to use something more direct.

Senator DOMENICI. OK. Did you have anything else?

Mr. WILSON. Let me see here. I did want to endorse the concepts of providing more community assistance in making themselves sufficient in operation of facilities. I think that's one of the major deficiencies and I do have one last comment which echoes I think with what Mr. Needham said and that is that we have a lot of reforms in the construction end of this program. I think we should consider some forms in the enforcement end. Quite frankly I think citizen groups and environmental groups don't have a lot of confidence in the enforcement program that is now set up.

On the one hand you have very severe violations which get minimal treatments. On the other hand you have situations like Las Cruces who are facing enforcement action on the fact that is not a significant environmental problem. I would suggest just as a notion that while construction priority lists are being established that enforcement priority lists should be established. You should get the program to really work against those that have got a new treatment plant, it's been built, designed, it works and it failed to operate. Those types of communities ought to be subject to strict enforcement action.

I think you ought to get interim solutions in place for the communities that are causing environmental problems while they wait for the construction process to be completed and on the other hand where you don't have enough of an environmental problem to warrant the community being very high on the priority list. I think their enforcement action is not that appropriate.

That concludes my comments beyond those that are in writing. I appreciate the opportunity to be here.

Senator DOMENICI. One last question. It has been implied, and from what I've read, it appears to be so, that the way we do it now is that an entity is more apt to get assistance if they're very negligent and almost don't give a damn whereas one that tries and is rather successful and therefore not so dirty gets less chance of help. Do you see that as being what we have done and if so, how it affects that?

Mr. WILSON. Well, yes. That has happened and what I'm proposing or suggesting addresses that by really beefing up the enforcement effort for those that you say "don't really care." I think there are many example facilities that really have been operated basically simple because there was no realistic threat of enforcement. The construction grants program or EPA program is set up to be a carrot and stick. The carrot was grants and the stick was the EPA enforcement. It's been all carrot and no stick up to now.

Senator DOMENICI. Where the stick is used rather arbitrarily.

Mr. WILSON. It's used rather arbitrarily. EPA enforcement staff is rather minimal in reading six for example, once they get past the Houston's ship channel there is really not much effort left to spread around the State.

Senator DOMENICI. Is there a lot of pollution there?

Mr. WILSON. There is.

Senator DOMENICI. Thank you very much. I appreciate it. All right, to our next panel. Are we going to have Dr. Hernandez testify with our State people? Why don't you sit together? We will have Tom Baca. Are you testifying, Tom?

Mr. BACA. I'll be giving the presentation.

Senator DOMENICI. Tom, we're delighted to have you here, not only do we want your testimony today, but I think you will gather from what I have said that we're close to having something completed. We hope to stay in touch as we work on this bill with you and your people.

Dr. Hernandez, we're delighted to have you here.

You've listened and hopefully will have answers to all those concerns that have been expressed.

## STATEMENT OF THOMAS E. BACA, DIRECTOR, NEW MEXICO ENVIRONMENTAL IMPROVEMENT DIVISION

Mr. BACA. Thank you, Senators, members of the subcommittee, it is a pleasure sitting next to John. We have known each other for many years and have worked together. We continue to work closely. He has kept in very close contact with the State since he has assumed the position of assistant administrator.

I would like to compliment you, Senator on the way you deal with New Mexico. Your staff is excellent as far as returning our calls. You couldn't ask for a better person in your office than Linda Findlay. She's very responsive.

Senator DOMENICI. Thank you very much.

Mr. BACA. Senator, I have about 10 minutes, perhaps less than 10 minutes of statement and I do have staff members available that will help me answer questions concerning construction grants program.

Environmental pollution and how to prevent it and how to alleviate its effects on the citizens of New Mexico is, of course, my primary concern. The construction grants program has done much since the passage of the Clean Water Act of 1972 to assist the State in meeting our goals of maintaining water quality standards in a State where water is one of our most precious and certainly one of the most limiting resources. We're extremely concerned and apply public health concerns in New Mexico.

However great have been our achievements, much remains to be done. As you are all aware, the cost of providing waste water treatment is tremendous. For decades in New Mexico our per capita income has been among the lowest in the Nation. Even though it has risen substantially, it is still below average. As a result, few of our communities can begin to afford the money necessary to plan, to design and to construct waste water facilities to meet their present needs, not to mention the need to achieve compliance with the act.

In realization of the needs of the steadily increasing population of New Mexico and the lack of means to meet our goals, the State provides a matching share of 12½ percent of the cost needed to plan and construct waste water facilities. I think we're one of the few States in the country that does this. We will endeavor to continue to do this. Our legislators are very concerned. However, in an age of steadily rising prices, we are faced with an even more significant problem of how to best serve the State in view of the proposed cut of almost 58 percent in the Federal share. It goes without saying, we are greatly concerned.

Our concern notwithstanding, several of the reforms which have been proposed are to be applauded. For example by allowing the States to determine priority among their eligible projects, we will be better able to obligate funds to those most in need. Further, by continuing the small community and alternate reserves we will not have to eliminate the majority of communities in the State.

I will comment specifically in a minute on the administration and Chafee proposals as it affects New Mexico.

The Division certainly understands the administration and the Chafee proposal to limit project eligibility to secondary and advanced secondary treatment and interceptors and associated facilities in urban industrial areas. Rural areas which surround these metropolitan concentrations have additional problems, for example, the north and south valleys of Albuquerque, problems which affect public health, and which certainly must be eliminated. Inconsistencies and not addressing these have no place in this particular program. We have strong reservations concerning the Chafee proposal to eliminate the funding of step 1 and 2 grants except through reimbursement in step 3. While the proposal may force communities to accept more cost-effective, possibly more realistic designs, the majority of communities in the State could not afford to begin a project even where required to meet existing water quality standards.

Further, no community that has applied for, or is presently completing a step 1 grant should have to be required to restructure their project at this late date in order to seek the money to continue through a step 2 project to a step 3 for reimbursement. Therefore, we propose that if this provision passes, implementation be deferred until October 1, 1983. If that is not practicable, we would request a deferral at least until 1981, and preferably 1982 allotments have been entirely obligated. Such deferrals would allow the continuation of projects at Estancia, Grants/Milan, Las Cruces, Logan, Roswell, and several projects in Albuquerque.

We do not concur with the Chafee proposal of reduction of the Federal share to 55 percent by fiscal year 1984.

Senator **Domenici**. Tom, why would the deferrals allow these projects to continue? They are getting funding from the feds for step 1 and step 2?

Mr. **Baca**. Many of these projects are in this phase, Senator.

Senator **Domenici**. Is reference to that, in either of these bills?

Mr. **Baca**. No.

Senator **Domenici**. All right.

Mr. **Baca**. We agree that the allotment formula should be reflective with the needs of the State; however, we also feel the formula should reflect the tremendous growth experienced by the State within the last 20 years. The Chafee provision to limit reserve capacity to 1980 population will have an adverse impact in that population growth, particularly as experienced throughout the Sun Belt, is ignored. The very real needs of the energy impacted areas must be acknowledged and dealt with now. To delay further, because of a lack of available funds to assist our communities only compounds the problems. Admittedly, while the population of New Mexico is considerably smaller than most communities on the eastern seaboard, the population has increased by about 20 percent since the early 1960's. This growth and our attendant needs are not reflected accurately in my opinion in any of the allotments which have been proposed. The State will be faced with a decrease in excess of 58 percent if the administration's formula is used, and even if the allotment formula proposed in the Chafee bill if that is used, an authorization of approximately $11 million annually, New Mexico will still have an additional $60 million need over the next 5 years just to complete the projects already on the priority list.

It is quite obvious that other funding sources must be found to assist New Mexico in meeting its needs; even if the State were to increase its share to say 20 to 25 percent many of the State's communities still could not come up with the local share.

We concur with the Chafee proposal that the States determine their own need and priority. We also concur in giving priority to those communities where water and public health quality benefits will be ~~greatest.~~ If highest priority must be given to projects in urban industrial areas as proposed by the administration, the majority of communities in the State could not qualify for funding.

Senator ABDNOR. Let me say while you are on funding. I realize it's quite a problem particularly in some States. I know in my State we're having a terrible time, we cut our budget while we increase taxes. I guess the die has been cast by this Congress that there's going to be less dollars back in the next few years and how we spend them. I think it is wishful thinking that we're going to find more money. I think that's a pretty sick statement. From what I see, the Congress has some tough decisions to make on spending. It would be very nice to be able to do more. I think we should pay more attention to allocations and formulas. Additional dollars would be hard to come by.

Mr. BACA. I think we in New Mexico have accepted the fact that there will be less dollars. We're concerned that the allotment formula favor heavy industrialized States and therefor we punish States with small populations.

We concur with the administration and Chafee proposals to make a 3 percent reserve innovative/alternative provision optional. The State has experienced difficulty in obtaining innovative status for several projects, although we have more alternative projects than can be covered by available funds. For example, 1980 and 1981 alternative moneys had to be divided among three communities while we were unsuccessful in obtaining an innovative determination in the case of another project.

We concur with the administration that section 206 be repealed unless supplemental funds become available.

We concur with the Chafee proposal that the act be redefined to include oxidation ponds, lagoons, and trickling filters as secondary treatment. We also feel the regulations should be redefined as proposed to eliminate 85 percent removal and allow a maximum range of biological or equivalent technologies.

Further, we agree that the deadline for compliance to NPDES requirements be moved to July 1, 1988. By redefining the act and regulations, standards can be more easily maintained. To expect compliance with all enforcement actions by the original deadline of July 1, 1983, is unrealistic, particularly given the funding needs with which we are faced.

We strongly agree with the Chafee proposal that would require the grantee's engineer remain on the job for 1 year after completion of construction. Any corrections however, needed to achieve compliance should not be considered ineligible for funding.

Senator DOMENICI. Would you back up and tell me what the paragraph that begins: "We concur with the Chafee proposal to redefine and include oxidation ponds . . . We also feel the regulations should be redefined." What does that mean? " . . . redefined as proposed to eliminate 85 percent removal and allow a maximum range . . . ."

Mr. BACA. Senator, if I might refer that to one of my staff members. Charles could you address that. This is Charles Nylander.

Senator DOMENICI. How are you?

Mr. NYLANDER. Very fine, Senator thank you. Senator, the 85 percent removal is currently EPA's secondary treatment technology for municipalities. As I understand the proposal, it would be to eliminate this 85 percent and to provide for a range of percent removals dependent on the type of treatment technology employed. So, if you were using the lagoon for instance, they might require 60 percent removal, trickling filter may be 75 percent, so on and so forth. That's my understanding.

Senator DOMENICI. OK. So, that addresses one of the issues I was talking about with a previous witnesses. We're going to have to expect less results and we have to clearly say that's OK. Now, why is it OK? I'm agreeing with you without knowing what's the health effect. Why did we have such a stringent standard to begin with? Was it useless?

Mr. NYLANDER. If I may, Senator, this removal percentage or the treatment technology was the new approach, the EPA took in 1972 with the Clean Water Act amendments. Previous to that, treatment technologies were based on stream quality. In other words, a particular plant discharged a particular effluent according to what the stream could assimilate or withstand. Now since 1972 EPA's thrust has been a uniformed nationwide treatment technology. They required the same kind of effluent quality from the same industry regardless of the State that the industry discharged to. By varying this now, it wou'd be my feeling that we'd be taking a step backward in water quality management. That is, we get away from uniformed treatment technology and we have more of a water quality base approach to water quality management.

Senator DOMENICI. You don't mean that we'd be taking a step backward in the adverse sense. How would you support it if it's a step backward?

Mr. **Nylander.** It's my personal feeling that this could be a step backward in the adverse sense that a less treated effluent would be discharged from municipality. I believe that 85-percent removal is comparable to most of the economic, environmental economic studies have shown that this is cost effective. Any less percentage I think would be a gift to the discharger.

Mr. **Baca.** Senator, any reduction in the state of treatment could be defined as a step backward, but I believe these main treatments can be geared to the industry and I don't think it's necessarily a step backward in maintaining environmental quality in the State.

Senator **Domenici.** Well, I understood the previous witness, Mr. Wilson, a hydrologist who does environmental impact statements and represents environmentalists' concerns supports the notion you're speaking of right now. Also, I failed to ask him how he justified that in some objective definition. Why do you support it if one's 85 percent is measured against some objective standard and the other is 74 or 70 percent.

Mr. **Wilson.** The amendment as it's written does say that you can only relax this treatment technology where water quality will be protected. So, that accomplishes the environmental. The percentage limit establishes a performance, that is, if you have a particular kind of technology, you should get out of it, what it's normally expected to produce. By reducing the level of treatment technology you generally reduce energy use considerably. Construction cost somewhat, provide a plant that has a technology that's more geared to our smaller community, so, it ends up being more reliable on a day-to-day basis.

Senator **Domenici.** All right. Go ahead.

Mr. **Baca.** The Chafee proposal to revise water quality standards and establish total maximum daily loads within 2 years of enactment may be realistic for some States. It's probably pushing New Mexico somewhat even though we have the technical staff. Further, the added proposal that construction grants funding for fiscal year 1983 and 1985 be contingent upon such wholesale revision is probably untenable.

Senator, members of the committee, I do appreciate your patience as I went through these provisions. I certainly don't claim to be an expert in all phases of these and I certainly would call on the staff to help me answer any of your questions.

Senator **Domenici.** Thank you very much. Unless Senator Abdnor has questions, we'll have John testify next. Dr. Hernandez, we welcome you. We have a prepared statement. We're OK on time so you handle it however you would like. If you want to give the whole statement, that's fine.

## STATEMENT OF HON. JOHN HERNANDEZ, DEPUTY ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY

Mr. **Hernandez.** Senator Domenici, due to the fact that there's been a lot of questions, I think that perhaps we put that statement in the record and that answering some of the specific comments that we've had this afternoon would perhaps be more beneficial. I would like to ask also that you put into the record a statement by a young man named Walter G. Hines and it's pertinent to this today. Mr.

Hines has worked for the U.S. Geological Survey for a number of years and is now a consulting engineer here in New Mexico. One of his interests is how are we going to monitor our streams in order to do the kinds of water quality standard updating that's called for in Senator Chafee's bill. On a number of occasions, my testiment for the House particularly, I was asked about the ability of our treatment plants to produce and how they were performing. I said that sometimes it's very difficult to tell because of our streams, the lack of good stream monitoring data. Mr. Hines' statement does relate to a technique for doing stream studies in a little more effective way than we have in the past rather than just taking data day after day after day without using them so, I'd like to put that in the record.

Senator Domenici. That will be made a part of the record. (See p. 266.)

Mr. Hernandez. I think it would be a benefit and I certainly hope that we in EPA look at that.

Just briefly before I answer some of your questions, I'd like to note that the administration bill is a reform bill both in terms of budget, that is, eliminating some of the currently eligible items and making and constraining eligibilities among those that we are leaving in and in terms of regulatory reform. EPA is now involved in reevaluating all of our regulations related to construction grants program and to water quality standards.

We hope to make significant strides so as to make the programs less difficult to deal with by consulting engineers by State agencies and that we reduce the burden on the communities as they go through these processes and hopefully we'll be able to have a much simpler and more workable process so that some of the complaints that you've heard today will not be a part of our future life and will not have projects that drift on 5 and 6 and 7 years merely trying to get through the redtape and over the hurdles. So, I'd like to assure you in that respect and I can give you some specific examples as you ask questions.

Senator Domenici. All right. Is the administration's bill a 1-year bill or multiyear bill?

Mr. Hernandez. The administration's bill is a 1-year bill designed to provide funding at the $2.4 billion level and that's a maximum ceiling. We would not want to see that limit exceeded for any reason and the desire is that as soon as this legislation goes through that we would start working with the Congress to review the Clean Water Act and all of the other provisions and come forward with a new bill, revised bill, that would send the right kinds of signals to cities and towns across America on how long we feel this program should last, what it should be aimed at, and this year we believe in limiting the eligibilities, identifying those in key important items so that we do send the right signal to the communities for future planning on their part.

Senator Domenici. So, that's significantly different right up front than the Chafee approach?

Mr. Hernandez. That's correct and I believe it's a little more realistic in the sense that after we go back in and look at what's now Public Law 92-500, the Clean Water Act, that we'll be able to decide on future funding in a more reasonable way.

Senator **Domenici**. Wouldn't you think that in this year of budget restraint that there might be a lot of people in Congress and in the municipalities that would assume the 1 year is all it's going to be?

Mr. **Hernandez**. I don't believe so. In the President's budget message in April, he said that we would propose zero funding for fiscal year 1982 unless certain reforms were made and set a target number of $2.4 billion for 1983, 1984, and 1985 and so I believe that the administration is solid behind future funding given that these reforms are made.

Senator **Domenici**. Why do we need a 1-year bill then?

Mr. **Hernandez**. I think the purpose of the 1-year bill is to identify what the program will look like in terms of construction grants and then go into the reworking of the remaining titles III and IV issues that are significant and that will have a bearing on what water quality goals we will look for in the future and how we'll seek those goals and that basically the funds will remain for sometime until we complete this backlog that we're faced with—the backlog being something on the order of $23 billion in terms of 1980.

Senator **Domenici**. Will the Chafee bill propose to address broader issues than you and the administration proposes to reform titles III and IV?

Mr. **Hernandez**. There's only one or two references to title III in the current bill and those have to do with how you determine eligibilities in the future. We feel that could best be left for next year at this time. That's the only item he has.

Senator **Domenici**. What is the House presently contemplating?

Mr. **Hernandez**. Well——

Senator **Domenici**. To pay your bill?

Mr. **Hernandez**. No, sir, I hope not. We're going to work with them during the recess and hopefully they'll come forward with the bill that will parallel the Chafee/administration bill to some extent and that some acceptable legislation can be arrived at through committee early in September.

Senator **Domenici**. Let me just ask you point blank, as a representative of the administration are you saying that you have been informed that the President wants a 1-year bill, is that what you're telling us?

Mr. **Hernandez**. Well, we came forward with a 1-year bill. I think that if there was a provision that was within the main constraints of the administration they might consider a longer bill. But basically we're looking for a single year authorization.

Senator **Domenici**. You've heard some concerns about the localities having to provide the upfront money for step 1 and step 2 and be reimbursed only if they got their full grant. What is the rationale and how firm are you on that?

Mr. **Hernandez**. This is part of the Chafee bill and not the redrafted Senate committee bill and not part of the administration bill. We would allow people to use Federal money for step Nos. 1 and 2 at the 75 percent Federal limit or less as decided upon by the Governor of the State and we believe that's a much more flexible and a better approach.

If the provision in the Chafee bill is that you got reimbursed at some later date, we feel it would be very difficult to identify those eligible items because of the arguments you continually have over reimbursement after the fact. The only way that that would be feasible would be to ask the communities to do some gambling and say you come forward with a set of plans and at the time that you bid those plans we'll provide you with a reimbursement of a flat percentage, 9 percent of the total cost of the project to pay for our share of the preliminary planning and design. It may be more like 7 percent as the Federal share. The total of those two right now is running around 12 percent engineering and preliminary planning.

Senator DOMENICI. Tom, that leads me to a question I was going to ask you when you referred to our State being unique and that we provide 12½ percent from State to community. If we did have to go with the Chafee approach and if the State was establishing priorities, I would assume they would want to have something to say about which municipalities ought to go forward with step Nos. 1 and 2 planning and design. Could not part of the 12½ percent, if you had that whole scenario, be advanced for that upfront money?

Mr. BACA. The 12½ percent is available to match but I believe the law specifically says it must be matched with Federal moneys. So if the State was to advance that money to a community it would require legislative changes.

Senator ABDNOR. I visited with Tom about that once. You preferred to see a different allocation system for whatever amount of money that we do have. Do you think you could provide one that would be more practical for the towns and cities of New Mexico?

Mr. BACA. Sir, we'd certainly like to give it our best shot, Senator.

Senator ABDNOR. Are you into this, Doctor?

Mr. HERNANDEZ. I feel the administration bill is the best one in terms of meeting water quality needs. Now, we've had some talk about ground water pollution. I believe that those would be answered on the public health provision. The administration bill says that the projects that would go to the top of the priority list would be those that had a public health problem or a water quality problem. The public health problem shares that same kind of priority with the water quality problem so a small community with a ground water problem would be eligible for a treatment plants or for interceptors and pertinences.

Senator ABDNOR. In other words, the ground water could be in addition to the construction grant?

Mr. HERNANDEZ. Protection of the ground water could be done as part of a treatment grant project.

Senator DOMENICI. And at the same national goal?

Mr. HERNANDEZ. And at the same national goal. I don't believe that we have any kind of concerns that we're limiting it just to surface water quality. If the ground water problem exist, it's eligible.

Senator DOMENICI. So, what you're saying Dr. Hernandez, is that if we are successful in making that clear, you would have no objection?

Mr. HERNANDEZ. None at all.

Senator DOMENICI. All right. Now, let's talk about allocation from a different standpoint. That's talking about what's priority. Let's talk about what a State gets as it share. Historically, we allocated to the various States on some formula. The smaller States have been protected by one-half of 1 percent so whatever is authorized, we get one-half of 1 percent and so do a number of other States. What is the administration's position on that?

Mr. **Hernandez**. The administration's position is it would be based on the backlog of water quality needs coming out of the current needs survey. We've already gone through the initial steps of reevaulating, resurveying for next year what those water quality needs are, water treatment plant needs and I think a good example of how it will work down the line is here in New Mexico. Tom Baca has said that right now we have about $12 million available under the administration bill they would get about $12 million for next year. If you said what's our current needs, our backlog needs today that we know about because they're already on that priority list, that's about $60 million and by the time you look, we've said this bill is going to, we're going to have this program for a 10-year period, we would hope to answer all of New Mexico's water quality needs in that time period or somewhere on the order of $100 million over the next 10 years for New Mexico. And that's a Federal share.

Senator **Domenici**. I haven't studied it that well, but, it would appear to me, that if one-half of 1 percent yielded the same amount, that you ought to have no objection to us being a little more sure that we're going to get it than to rely upon this rather vague needs list.

Mr. **Hernandez**. I don't think it's vague at all, Senator Domenici, and I've said this is what the States have come forward with and said this is what we need and I don't see any reason to provide any more money than they said they need.

Senator **Domenici**. I'll agree with you if you will send us what each State list looks like and we'll incorporate it in the statute, otherwise, I've gone through this exercise once or twice and the needs list change. The other question I have is now do we know that that priority list is a good one? Since we've been shooting at different priorities and we've even talked today about the fact that priorities ought to be different, why should we go back and accept them, this $60 million list that you've spoken of?

Mr. **Hernandez**. What each of the States have done, they have five categories and they've listed their needs in each of these five categories. Under the administration bill, only three of those categories would be grant eligible. The others would drop out. Because we've asked them in each one of these categories what their needs are, they've had an opportunity each year to update these needs. And you have to take them as being valid. Now, a few of the States have stated they underestimate their needs. We could go back and do a quick survey on that to make that determination. I think what you have to realize is that this is a water quality bill, not a public works bill. Some States may feel they're losing money based on previous years' allocations in $2.4 billion level. We know we have to say no to expending Federal moneys and do the job at meeting water quality and that's what this is aimed at. We would meet New Mexico water quality needs over the time period.

Senator **Abdnor**. Do you think that list gets inflated more by some States than others?

Mr. **Hernandez**. Oh, I think it probably does, Senator Abdnor.

One way of doing that is that we set some target time down the line, say 1984, when we would base these needs on water quality standards in the State and the needs defined therein. Then, for the next 2 years we do it on the basis of what the States have told us and then in 1984–85 we set it on the basis of water quality.

Senator ABDNOR. Do you ever take a check on the State's list of needs.

Mr. HERNANDEZ. Yes; we do review them and send them back, particularly when we find that they're overinflated say, for example, in advance wastewater treatment or some other aspect. We could resolve that problem if we went through the water quality approach to determine needs in some future year. I think the soonest we can do that would be in 1984. One of the real problems, and why Mr. Hines' paper is important, is we have to have some uniform cost-effective way of doing those stream surveys to determine what the water quality needs really are.

Senator DOMENICI. Under your interim 1-year bill I have a table here that says our share would be $4.8 million.

Mr. HERNANDEZ. I think that may be right. It's about 58 percent of what the current is, that's right. And 10 years at that plus the backlog gives, I guess, New Mexico $60 million. I've forgotten it was that low. I think your right.

Senator DOMENICI. Senator Chafee's share is $10.7 million. You have any idea which bill I might support?

Mr. HERNANDEZ. I think that the 10 is based on Senator Chafee's bill.

Senator DOMENICI. We can choose parts of each? What about the Corps of Engineers? You've heard some testimony that they ought to get out. That's rather amazing as much as I respect Dayton Molzen. We just got them in and it was a rather long and arduous job to get somebody in the Federal Government outside of EPA with some expertise and construction. Perhaps he is saying that by the time EPA got the expertise we shifted gears, what is your position?

Mr. HERNANDEZ. I think the corps fulfills a useful role in supervising the construction of these projects. We had aimed them at handling the larger projects in those States, so, that they would not be involved in small projects like in Espanola or Bernalillo or some of the smaller communities but would be dealing basically with larger communities like Albuquerque. Part of that depends upon their general availability, where their offices are located. With headquarters in New Mexico, they have a larger involvement than they might in some other States compared to the distance that EPA people have to travel to come out here. So, they've assigned them a major role here in New Mexico in terms of viewing designs for constructibility, supervising the letting of bids, awarding the contract, and that sort of thing and they're very good at that aspect of it. They are not experts in water treatment plant and wastewater treatment plant design and should not be involved in that part of it. Contract management is where we've asked them to take a major role and they're good at that.

I think that in any kind of a situation where we're dealing with people and relatively new programs, you do have them coming in and occasionally being overly aggressive, overly officious and I would hope that this is a more limited situation and not one that we can characterize as existing across the country. Certainly, if it is more general and I have not heard that complaint outside of New Mexico.

Senator **Domenici**. Well, that then leads us to what I gathered from the consulting engineer that represents a number of small communities here. I gathered that he was saying, if you're going to have us construct the kind of things we build we are the experts and want more latitude and want to assume more responsibility. They want you out of the details. One said they fostered this bill because it meant more commissions. I don't find that at all from what I hear. What do you think about that?

Mr. **Hernandez**. I really hope that EPA gets almost totally out of individual grant management. There will be a few types of projects where we will try to remain involved in some type of major oversight but, the run-of-the-mill project, I would hope that the States would take the responsibility for reviewing the plans, approving them, telling the communities to go on ahead, deciding what kinds of public hearings are necessary within their States, and making decisions that they would normally have made before EPA got into this program in 1972.

We had a program starting in 1956 under Public Law 660 and there we had the same eligibilities that are now proposed under the administration bill and that was a very successful program in building wastewater treatment plants that were needed. We didn't say you had to meet the 85-percent guideline and the States ran those programs and they were quite efficient in terms of getting things constructed. Since then, we've been less efficient.

Senator **Domenici**. Right. Dr. Hernandez, the administration's bill recommends that we go ahead and provide some latitude so we do not have to build all the secondary treatment plants the same. Do we then not require the same degree of clean up?

Mr. **Hernandez**. I think that we have to go back in history to what we were looking for when we decided that everybody should have secondary treatment. I notice that we're beginning to get a little water into the place. I believe that we were overly optimistic about what could be achieved by good sewage treatment plant design and we decided that we could meet the so-called 30/30, that is 30 milligrams per liter BOD, 30 milligrams per liter suspended solids, on some kind of a routine basis and when we decided that and said that's what secondary treatment is, that's what we wanted as a basic floor across America regardless of what else happens, that's what we want.

We began to find out that we ruled out some of the kinds of treatment plants that we used in the past, the trickling filter. Unless rigorously designed, could not meet that kind of a criteria on a regular basis throught a total part of a year particularly in a place like New Mexico where we have such temperature swings both from day to day, within a day, and throughout the year and said we found that those and lagoons were not meeting these needs that they had an effluent discharge, it couldn't meet the 30 milligram for liter BOD and yet it had a little effect on the receiving water and so, we had to go to a much more expensive type of treatment plant, the basic one is the activative sludgeplant but, even there the activating sludgeplant had difficulties, many of them and some of the major design engineers who started putting in filters, sand filters after the treatment plant in order to make sure that they could meet these standards and that combination has made a very, very expensive plant, one has become more and more sophisticated and one that consumes a great deal of energy.

I think that Mr. Needham, in his testimony about Las Cruces failed to tell you the power bill at that Las Cruces sewage treatment plant. I think last year it ran something like $185,000 for the treatment plant and that's a lot of money to burn up in pumping water around and blowing air into it. The trickling filters are much more efficient plant in that respect and less subject to operator problems and operator air. I'm a very strong supporter in modifying our, what we call "secondary treatment" because it's not needed in order to protect the receiving waters in many many many instances and we can do with cheaper, simpler designs that achieve the same basic goal, that is providing a floor that provides some kind of basic water quality treatment, biological treatment.

Senator **Domenici**. All right. Now, I suppose then what you are saying in response to my question is that when we go with that in your bill or Senator Chafee's bill that we have to make it clear that we do not necessarily expect 85-percent cleanup or the 30/30 out of that process; is that right?

Mr. **Hernandez**. That's correct. I think we need to look at one little problem in the Chafee bill if that language is continued and that is, the dealing with them on an individual basis. I think that you have to leave some room for the Administrator of the Environmental Protection Agency to draft regulations that would define what secondary treatment is in terms of the trickling filter and oxidation ponds, lagoons, whatever. While right now as I read that language, it might put us into the case of dealing with each plant no matter how small on an individual basis and that would probably be poor practice.

Senator **Domenici**. All right. You've just stated what the administration's position is and if I'm correct, there's almost unanimous support for this approach. Yet, how are you going to determine whether or not one of these facilities are in compliance or not?

Mr. **Hernandez**. I think that what we should do is put together a regulation that says trickling filters designed on this basis will be acceptable as long as they produce a reduction of say 75 percent in the BOD or some number like that and I believe that we could probably set that or some limit 45 milligrams per liter of BOD on a 7-day average or a 30-day average or some number like that.

Senator **Domenici**. Well, that sounds very good and since we have great confidence in you, we think it's right, but, I don't understand how that relates to some national standard of cleaning up the water.

Mr. **Hernandez**. I believe that our national goal was to remove those sources of pollution that streams couldn't handle. The kinds of things that seriously depleted oxygen in the stream, so that it had some impact on the biological line. There's some significant impact on the biological line in a stream or a lake that has some clearly identifiable adverse affect and I don't believe that using trickling filters again will adversely affect the stream. I think Las Cruces is a good example, when the dams are open and the river is running, you can't find any measureable change in the treatment plant. When the Elephant Butte Dam's gates are closed and there's very little water in the river, the water seeps into the subsoil very, very quickly, and what organic matter remains is filtered off in those sands. I think we're providing a stable effluent that has some biological matter in it that is taking care of biological actions in the stream channel as you go along, it has no affect on it.

Senator DOMENICI. We'll obviously need to do some drafting with you on this before we go to those markups. We'll have the staff get with you for your assistance.

Mr. HERNANDEZ. Sure.

Senator DOMENICI. Now the big issue that we haven't touched on at all, and let's talk about it for a little while, that's whether we're going to provide any assistance for the needs that are based upon growth versus needs in existence in 1980. As I understand it, we were defining it before at a point in time plus 25 percent. That's how we got collectors and growth built in.

Mr. HERNANDEZ. About a 20-year growth period, something like that.

Senator DOMENICI. Now, the administration's bill and the Chafee bill unequivocably say "no" to the add on or need that's brought about by growth, why?

Mr. HERNANDEZ. I believe that the Federal Government has said we have a responsibility to help the communities of America meet their present water quality needs.

There are many towns in the country that are not dry and what we're doing is we're asking those people to subsidize the growth of parts of America that are growing much more rapidly. Those communities that have the new growth also are having new money come in and they are the best one's able, in fact, to support that kind of growth. I believe that the administration's bill provides for it in a way. We said we would provide for the planning, we will provide for the design of the wastewater treatment plant at whatever design you want to set and then when you let a bid, we'll make a decision. We'll give you guidelines on how we'll determine what portion that treatment plant relates to your growth and I think Dayton Molzen's concern about how you decide on those guidelines is very important. But, I'd have to assure you there would not be the strict 25 percent and therefore, we'll reduce the grant by 25 percent. But, we would probably come forward with something relatively simple and when you do simple things sometimes their not totally equitable. Rather clear cut rules about deciding what percentage is paid for by the Federal Government and the remaining being the responsibility of the communities.

Senator DOMENICI. Well, then can we start with some very basic points then. Do you agree with the testimony here that we should not exclude collectors, generically because some collectors are for past clean up? What about the small communities that have a number of septic tanks and need a collector, that's a big growth. We're not talking about adding a subdivision and we're not talking about a trailer park being added. Why do we need that latitude for a State that determines it's priority?

Mr. HERNANDEZ. I believe there are a few communities left that meet that description that you have. We would only be talking about existing houses. I believe those are very, very small in number and the sizes relatively small, although you might pick the south valley of Albuquerque or some place like that.

I don't believe that we should go on funding collectors because there will be a continued abuse of what, in fact, is eligible no matter how you do it. You start to open that door and everybody has a different part of the door they want to open and how they want to make this piece eligible and not that piece and say well, we're drawing the line over here. So, I think that it's one of those things where, if you make communities provide their own collector system, they'll do different kinds of things as they have in the past and the traditional way of doing this is that subdividers, when growth occurred and we needed new collector systems, paid for it and then got reimbursed as people built on to the system. Now, if you take the kind of case you suggest; that is, one where we have an established community, it would have to be relatively small or there would be a collection system and a sewage treatment plant there already.

We started that kind of project under what was called "sanitary projects act" here in New Mexico years ago where we would go to a small community like Organ, N. Mex., or Reserve, N. Mex., an unincorporated community. We went to them and we said, we'll help you provide the main laterals through the town and the sewage treatment plant system and you all have to put in the little street laterals and the rest of this collection system and using State and Federal money, we'll help you build this system and we've done that in a number of places. There remain some larger ones that were so big that they were not eligible under that kind of a process. There, we were dealing with larger lots, 2- and 3-acre lots, even bigger than that in some cases, some smaller in south valley in Albuquerque, the area between the Dona Ana and Las Cruces, an area building up in there. I think if you build those collector systems out there and start that, somebody could say well that's an old community, Dona Ana—heck, that's what the county was named after and yet there is no place to draw the line and say that's the eligible part and will provide the collector sewage there.

I believe that there are other routes, Farmer's Home Administration loans to people and if we build these things and they don't have a good solid base, they're not going to be able to maintain them and we're going to end up with people complaining about the cost of these systems to themselves. So, I would resist collectors systems totally. I just don't believe the administration will ever give in on that issue.

Senator **Domenici**. Well, maybe not, but I hope you don't continue to use the other programs without checking to see how much they are cut too.

Let's leave collectors for a minute. How are we going to take care of an Albuquerque or Dona Ana County situation, or Santa Fe situation where, if you don't go out and build a sewer plant, you're not in compliance, you've got problems. You've been trying to put a package together, you've got a growing city, you surely don't go out and plan to build something that gets you the 1980 growth figure, you've got to build a plant for 1990, 1995, 2000. Are we going to have some easy way of determing early on for these communities, what is going to be shared by the Federal Government and what isn't?

Mr. HERNANDEZ. I believe we will. We'll have to come forward with guidance on how you make that determination between the 1980 capacity of the plant and the year 2000 capacity of the plant. Interceptor sewers is a relatively easy job because that's a flow unit and you can decide on the difference between the cost of an inch. We'll come forward with that. We've had enough experience in the design of plants that we can say on the basis of our experience, this is what that percentage is or this is how you arrive at it. I don't have any real qualms on that particular one.

Senator DOMENICI. And you think that could be decided almost like a formula?

Mr. HERNANDEZ. Almost like a formula so people will know ahead of time rather than the kinds of quibbling we would go through and it would have to be that way.

Senator ABDNOR. Isn't that subsidizing the cities that haven't been dealing with the pollution problems?

Mr. HERNANDEZ. Senator Abdnor, I think that's a really good point and a good argument. We have another comparable bill so-called superfund bill where we're going to provide Federal money or money that was put up by the chemical companies to clean up toxic waste dumps and somebody says my gosh, aren't you rewarding those people who did the worst job out there in taking care of their State in the past. It would seem that way. Both of these are aimed at solving present societal problems, not at making some kind of an equitable distribution of funds across the board. I'm going to use some of the words that you used, Senator Abdnor, on a TV program about 3 or 4 weeks ago in Washington, D.C., when you were talking about the clean water bill and they said Senator, how many States in the West are going to like having their money cut and reduced at the gains of the large urban areas. And you said it's going to take a lot of statesmanship.

Senator DOMENICI. Well, that is true, that isn't a very easy decision to make and I compliment you for characterizing it that way and I compliment you more if you can vote that way.

Let me ask Dr. Hernandez this question. I really am not sure in all honesty whether for the next few years we're going to have limited resources. I'm not sure whether you are going to prevail in using the needs list you have referred to. I personally have not studied it well enough, I really hope it's a very objective list and that we get our share. I've seen these needs list evolve in the past and I'm disturbed because some States put much more on them than others. I assume it's a much more defined list?

Mr. HERNANDEZ. I think there is some of that. The people have inflated some of their needs. There's just no doubt about that. Some of them have anticipated inflation, others have not. There are going to be some inequities during the first couple of years as we do this. But, if we go back, say to a 1984 and 1985 basis on water quality surveys, from then on out, it will be an equitable list and that will be fine if you've been missed in an allocation in 1982 or 1983, you'll still be there in 1984 and 1985 and on out until the 10-year period that we anticipate this program going.

Senator **Domenici**. Assuming the more politically pragmatic approach in the past, the small States get a half of the percent, assume that prevails for this question, why would you be concerned about what we used it for? Couldn't we have a more flexible priority list?

Mr. **Hernandez**. Then we don't have a water quality bill, Senator. We have a public works bill.

Senator **Domenici**. I know, but, we haven't had it. We have fooled everybody into thinking we have always had that flexibility in the past and we haven't, so I'm just asking that question. I'm not sure which way it goes. It's not all that much money on the national——

Mr. **Hernandez**. I don't think it's the money concern. It's the conceptional concern that if the Federal Government belongs in this program at all it belongs in this program to meet water quality needs. Otherwise, we should get out. If we answered all of those, we should not have a construction grants program and we should not ask the Federal Government to help with this bill, whatever it is. And in that sense, those eligible items should be those related to water quality.

Senator **Domenici**. All right. I don't know if I can argue with you on that. You may win, you may lose but you make good sense.

Mr. **Hernandez**. Well, I'm glad I sold you on one ear.

Senator **Domenici**. Senator Abdnor, did you have anything else?

Senator **Abdnor**. I guess not.

Senator **Domenici**. The staff is suggesting that maybe your rigidity on collectors is not based upon the sound rationale that some collectors may not be directly related to water quality.

Mr. **Hernandez**. I think that in some small communities, that may be the case. There is the potential for using that rural set-aside in any way that you would want to other than the collectors system to build facilities that may only serve two or three blocks. It may serve localized areas or individual treatment facilities of some kind and that opportunity will continue to exist under the INA program. I believe we can answer those kinds of localized needs in smaller communities through the innovative and alternative approach right now.

Senator **Domenici**. Tom did his discussion with me prompt any further comments from you?

Mr. **Baca**. I don't think so, Senator.

Senator **Domenici**. I notice that the public works director is here. Perhaps he has a new title now. I knew him as the public works director in Albuquerque. Would you care to add anything to what we've been talking about?

Mr. **Noland**. Yes, sir.

Senator **Domenici**. All right. Why don't you join us. I understand that you were asked to give us your testimony for the record but if Senator Abdnor doesn't mind, we'll take a few minutes and let you go ahead and talk with us.

Mr. **Noland**. Thank you, Senators. I appreciate the opportunity to make a few comments. We have to disagree with Mr. Hernandez. The city of Albuquerque, although, having approximately one-third of the population of the State probably has 50 percent of the sewage treatment problem in the State. In fact, I'm going to do a survey on that just to check it out. I would guess that's a pretty good figure. Neither the administration bill nor the Chafee bill helps the city of Albuquerque in solving its sewage treatment problems. I would raise the question, in talking about trying to get communities up to existing standards, as to whether or not it's like being in a ping-pong game because, you throw the ball over there, you get those up to standards, in the meantime, the cities that are having growth are falling behind standards. If this program is for water quality, it seems to me it should be for water quality across the Nation regardless of where those problems occur.

If either bill is passed in any semblance of its present form, the city of Albuquerque will be out of compliance with Federal standards in 1982. If there is some provision in the bill that allows the States, or someone, to make a determination on some kind of basis as has been suggested here, then maybe the standards could be localized better. We could save a tremendous amount of money and still do the job of maintaining water quality in Albuqerque as has been indicated by the testimony previously.

We have tried to do a good job of meeting the water quality standards and are currently meeting them and meeting the permit standards. But, in the south valley of Albuquerque, as you well know, Senator Domenici, we have essentially a small city; $14 million has been spent putting in collection systems to take care of a very serious health problem. When I moved to Albuquerque in 1974 as county manager, I found that the death rate for new born infants was three times as high in the valley areas as in the heights areas in Albuquerque. It was not solely due, but was in a great part due to their problems with water quality in the area. I'm sure that's better now, but after spending $14 million and still needing to spend at todays dollars another $9 or $10 million to finish that job, we're certainly going to find that there's going to be no more money for that kind of program.

So, after you've worked on a program for the city of Albuquerque since 1971 and have gone through a step 1 process, have developed a plan that will take care of its problems through 1991 to 1993 depending on its growth—and we're on the priority list now at the State level for some construction grants—and then we're going to be told that starting October 1, 1982 as we just submitted for one grant in the last month, that no longer can we consider growth in that grant, what are we going to do, go back and redesign the project? Or do we have to find another way to come up with the additional bucks? We're talking $6 or $8 million on that one project.

Senator Domenici. Which one is that, Paul?

Mr. Noland. It's the Lift Station 20 project, Senator at Rio Bravo. We have a lift station that pumps all the sewage collected on the west side of the river over to treatment plan No. 2. That has to be expanded considerably because of the money that has gone into the sewage collection system in the south valley and due to the growth on the west side of Albuquerque. It all flows to there, we have a large expansion program $6 to $8 million project. We're in on that now for a construction grant. We're told that when the money becomes available, October 1, then that will be funded but that has growth built into it. What do we do? I think there has to be some kind of grandfather provision in the bill or else you're going to stop some programs dead in the Nation, not only in New Mexico. Programs that are ready to go are going to be stopped dead while we have to go back and do some redesigning or figure out a way to fund the program which right now we don't have a way to fund that unless we raise sewer rates substantially or come up with local money.

Senator **Domenici**. What if we grandfather and the State's share goes down substantially because of less money. Projects would just get spread out longer in the State of New Mexico wouldn't it?

Mr. **Noland**. Yes, sir. I think that's what you're talking about and that's why I like the idea of the enforcement action being tied to the construction grant program. I believe that's an excellent idea. There certainly should be enforcement action taken if this program is going to be successful. However, we should not be penalized due to the inadequacy of funds.

The ANSA supports grandfathering. They represent over 100 of the metropolitan areas in the Nation and probably again close to 50 percent of the sewage problems. They're proposing that grandfathering be on the basis that if you have completed your step 1 program that the funding for that program, since your planning is all on that basis, that should be the grandfathering basis. In Albuquerque that would mean funding the projects that are in our program would go to about 1991 and would handle growth to about the period of 1991.

Senator **Domenici**. Let me ask you, Paul, Dr. Hernandez has been very much opposed to the collectors here today. We've seen some proposals where collectors are aimed at extending facilities out in the new area. What if we look at the north and south valleys of Albuquerque, are not collectors being put in? Haven't they been put in the south valley because there were no facilities there and you had an abundance of housing and had a very serious health problem?

Mr. **Noland**. Absolutely. That's the justification for the program, it's purely on health basis, Governor King has supported the program, in fact there was a State appropriation for a small part of that program on the basis of health needs.

Senator **Domenici**. I support it very strongly and still do and we're not finished yet are we?

Mr. **Noland**. $15 million more to complete the program, we've spent $14 million on it.

Senator **Domenici**. Grandfathering wouldn't take care of that problem would it?

Mr. **Noland**. No, sir; you would have to lead collectors in and that's all existing housing. The study was completed in 1977 and all the plans have been based on the housing that was in existence.

Senator **Domenici**. Now, from what I can tell, that would be obviously inconsistent with the administration's position and as Dr. Hernandez has stated it here, but, I'm not sure whether or not those needs are on the needs list.

Mr. **Noland**. They were not on the last priority ranking at a level that would get funding anywhere in the near future at the State level. So, I would guess they are not on the State needs list but the State can answer that.

Senator **Domenici**. Tom, do you know if they are on the big State needs list?

Mr. BACA. Mr. Chairman, if I call on Dee Dee Snow who heads up construction grants program.

Ms. SNOW. I'll have to go back and check. I don't believe they are listed on that.

Senator DOMENICI. That's been very helpful. Do you have a detailed statement for us.

Mr. BACA. I haven't prepared it yet Senator, we were talking with Linda and we wanted to consult with her some, if we can submit it at a later time we will do so.

Senator DOMENICI. We'll leave the record open for at least 2 weeks. If you'll get that to us we would very much appreciate it. Doctor Hernandez, do you have any comments about that?

Mr. HERNANDEZ. Yes; I think I do. There's only so much money that's available and the minute you start fracturing it up and saying well, we want to do this with it too and we want to do that, then we're moving away from these basic problems meeting those water quality needs. I think there's some other ways to handle public health problems. If there is a severe problem in the south valley, in the north valley, I think those things can be dealt with first by providing city water throughout those areas and eliminating the private well problem. The city, with the kind of growth potential that's been demonstrated by Albuquerque over the years, has to be able to charge the kind of realistic utility fees that will make them a self-sustaining unit. We can't go on having Federal money pay for all these things. There's a lot of new customers out there. I think it can be done on a reimbursement basis and that's what they ought to look for.

Senator DOMENICI. Well, I think that's probably true for the future but there really are some areas in the State where that doesn't fit too well. I think the more you think about it, Doctor, you could say there is just so much money and you can't keep adding things on. I think you can draw a pretty good analogy in one of the older American cities which hasn't had much growth and didn't take care of their needs and they're going to go to you for what? They're not going for the collectors because they had collectors, they're going to you to build them a whole new major sewer cleanup facility to clean the same kind of water that's coming out of the south valley of Albuquerque, except that we had it going right into the ground. I don't see an awful lot of difference between the old city in eastern America that didn't take care of its cleanup needs and now they're asking us to fix that and we all readily say, well, that isn't a collector so, we'll fix it for them, but we didn't have that centralized system before, we had an old town with old streets and poor people and no major facility. I'm not sure there's that much difference.

Mr. HERNANDEZ. I believe when you start building those collector sewers out there, that the Federal Government is making local land use decisions that are best made by people in the county government where Paul Noland came from and by the city government where he is today. The size of the Federal grant, 75 percent State money so dominates this that we find people making decisions they wouldn't otherwise make. You said, what are your priorities to the city of Albuquerque, is that one of them, then they should make that decision themselves. When you put out that kind of money that comes from somebody else they'll make the decision to spend that money on collector systems when they wouldn't otherwise.

Senator **Domenici**. We're going to agree on about 90 percent of the dollars.

Senator, do you have anything else?

Senator **Abdnor**. No.

Senator **Domenici**. I thank you all very much.

[Whereupon the subcommittee was recessed to reconvene at the call of the Chair.]

[Statements submitted for the record follow:]

**Phil Lovato**, *Mayor*

*Councilmen:*
**Arturo Archuleta**
**Eloy Jeantete**
**Joe A. Sanchez**
**Fernando Valdez**

Town of Taos

**Carlos Miranda**
*Town Administrator*

**Wilfred Gallegos**
*Asst. Town Administrator*

**Josephine Gonzales**
*Town Clerk*

August 10, 1981

STATEMENT RELATING TO PROPOSED
CHANGES-EPA CONSTRUCTION GRANTS
PROGRAM AT A HEARING IN SANTA FE, N.M.

Mr. CHAIRMAN, Senator Dominici
Dr. John Hernandez, Ladies & Gentlemen:

I am Phil Lovato, Mayor of Town of Taos.

Mr. Chairman, I have the honor to present at this hearing a statement on the proposed 1981 amendments to the EPA's grant construction program pending before the Senate Environment and Public Works Committee.

My remarks will focus on problems facing small communities in Northern New Mexico and more specifically in the Town of Taos and the Taos Valley.

I offer the following comments and suggestions on behalf of the Town of Taos.

SECTION 2, indicates that after October 1, 1981 States and local communities will have to provide funding for engineering and design phases of publicly owned waste treatment facilities. It further provides that in the event a Step 3 construction grant is awarded, the Federal share of Steps 1 & 2 will be reimbursed to the grantee.

Step 1 feasibility studies are intended to determine and establish the needs to meet Clean Water Act criteria and the needs of the community. If the need is established and it involves large capital expenditures I offer the suggestion that the federal share for Steps 2 and 3 be officially committed when Step 1 has been completed and approved by EPA. This would assure implementation of the facility on a reasonably set schedule basis. Small municipalities for the most part do not have the financial resources to tie up funds for studies which may be put on the shelf with no reasonable assurance that the project may be implemented.

SECTION 4, provides for limitation on the eligible waste treatment facilities that may receive Federal cost-sharing assistance in the future. If by secondary treatment it is meant that facilities such as oxidation ditches, lagoons, clarifiers and other elements common to waste treatment facilities, then this section is reasonable. If such elements are not included I offer the suggestion that they should be.

SECTION 9, I take particular and strong objection to this section and to Section 8 of the Administration's bill, S. 975.

The provision that after enactment of the 1981 amendments no grant shall include any Federal funds for meeting the needs of population beyond that included in the 1980 Census severly penalizes growing regions. It perpetuates a continuning number of underdesigned waste treatment facilities. It fails to recognize long-term and orderly growth and future needs for regional waste treatment plants.

The Town of Taos is a case in point. The 1980 Census reports a population of 3,362. However, the Town is the main trade and service area for an estimated 8,000 people living in the adjacent unicorporated communities within Taos Valley. In addition, it is estimated that as many as ½ million tourists visit our area annually. All of this creates a substantial burden on the Town's waste treatment facilities.

The Town's present treatment plant was constructed in 1972 with similar limitaitons as prescribed under the proposed amendment. By 1976 we were exceeding the permitted levels. If no additional growth is considered, we will be on another design-expand-construct cycle by 1985.

I point out the following:

The projections for the Town's corperate area indicates the population may reach between 7,100 to as high as 21,000 by the end of the century--nineteen years from today.

The projections may or may not be realistic. However, the records show that water usage which affects our waste treatment facility has increased annually. A further substantial increase is projected in the next 10 to 20 years.

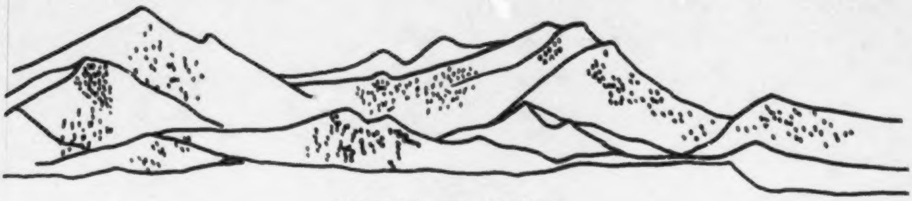
In addition, as unincorporated communities in the Taos Valley adjacent to the Town of Taos grow, and they are growing, a regional waste treatment plant makes a great deal of sense and could be a reality in the near futrue. Two water and sanitaion districts have been formed in the Ranchos de Taos and El Prado areas adjacent to the Town of Taos. Discussions by officials of the three legal entities indicate a general and informal agreement that we will join efforts towards implementation of a regional plant. The cost effectiveness and ecological balance seem to point towards a location of such a plant at the site of the presently underdesigned Town of Taos plant. Therefore, the redesign-expand-construct cycle appears a certainty if the 1980 Census criteria were to be used.

I offer the suggestion that the language under the sections limiting federal participation to the 1980 Census population be modified to take care of situations such as I have noted.

All other sections in the proposed 1981 amendments to Clear Water Act present a fair, equitable and reasonable policy with which our municipality feels comfortable.

Thank you for the opportunity to make this presentation. I respectfully request that it be included in the official hearing record.

Respectfully submitted,
Phil Lovato
Mayor
Town of Taos



VILLAGE OF QUESTA
P. O. Box 260
Questa, New Mexico
87556

STATEMENT
OF
MAYOR MAX ORTEGA

I am Mayor of and representing the Village of Questa, New Mexico. I am here to offer information regarding EPA's construction grants program, and more specifically to address problems facing small communities in assistance to construct or improve wastewater facilities. EPA's program makes Questa and similar communities extremely difficult if not impossible to qualify for EPA funding. Population density requirements are such that Questa and other New Mexico Communities can not qualify for construction of wastewater collection lines under EPA's Construction Grants Program. The cost of operating and maintaining individual on-site disposal systems is expensive and creates a financial strain on the people. I would strongly recommend that the program be reformed to address the above stated concern. I would like to add that Questa is fortunate to be situated adjacent to Mineral Development activity which makes the community eligible for State financial assistance for construction of wastewater facilities. Questa has received substantial assistance from the State for this purpose, otherwise Questa would still be attempting to qualify for EPA financial assistance under a current program which is very difficult on small communities such as Questa.

Max Ortega
Max Ortega, Mayor

## COMMENTS ON PROPOSED CLEAN WATER ACT AMENDMENTS

The City of Las Cruces welcomes the opportunity to make comments on the proposed amendments to the Clean Water Act. These amendments come at a very critical time for the City and could have a very significant impact on wastewater treatment works for Las Cruces.

Las Cruces has been involved in the Construction Grants process under Public Law 92-500 since the early 70's with modifications to the present plant being funded under combined grants from the old Public Law 660 and Public Law 92-500. Two grant extensions were received since the original project, so the City has had an active grant until as recently as last month when our latest project was completed. Regretfully, construction performed under the grants program has not been successful in that the plant is still not producing an effluent to meet NPDES Permit Requirements, and the Federal Environmental Protection Agency and the State Environmental Improvement Division is undertaking enforcement action against the City. The City is also concluding Facility Planning which is funded in part by a Federal Grant. This Facility Plan reveals that a new plant should be constructed to correct deficiencies at the present plant and provide for projected growth. The cost of the new treatment facility is estimated at 20 million 1981 dollars with another 7 million 1981 dollars required for interceptor construction. Las Cruces is, therefore, projecting that $27 million is required to construct treatment works necessary for the next 20 years. We have projected that the new plant can be put in operation no sooner than 1989 under the present Construction Grants Program if funding is made available on a timely basis. We also project that inflation will significantly increase the cost.

It is from this point of view that we have evaluated the proposed amendments to the Clean Water Act and offer the following comments.

(1) Amendment to Section 204(a)(5) - The proposed amendment limits federal participation in the construction of new wastewater treatment facilities to a percentage of the cost necessary to meet 1980 requirements. This means that there will be no federal participation in capacity reserved for growth. The additional capacity required for growth must, therefore, be funded by the State and local governments. Applying this to the Las Cruces situation and comparing it to the present Construction Grants Program, we find the following:

### Present Construction Grants Program

Cost of facility to meet projected needs through 2005:

| | |
|---|---|
| 8.9 MGD Plant | $27.0 Million |
| Federal Share (75%) | $20.0 Million |
| State Share (12.5%) | $ 3.5 Million |
| Local Share (12.5%) | $ 3.5 Million |

### Proposed Construction Grant Program

| | |
|---|---|
| Cost of facility to meet needs through 2005 | $27.0 Million |
| Cost allocated to 1980 requirements<br>(Assuming a direct ratio apportionment of 5/8.9. We recommend that the method of apportionment of costs be enumerated in the amendment as this proposed language allows for a wide range of interpretations.) | $15.0 Million |
| Federal Share, if constructed before 1984 (65%) | $9.8 Million |
| State Share (assuming 17.5% participation) | $8.6 Million |
| Local Share (17.5%) | $8.6 Million |

If constructed after 1984:

| | | |
|---|---|---|
| Federal Share | 55% | $8.2 Million |
| State Share | 22.5% | $9.4 Million |
| Local Share | 22.5% | $9.4 Million |

Please note that all costs are given in 1981 dollars.

The financial impact of this amendment would be to increase the state and local share from approximately $7 million to approximately $17 million. (These figures do not take into account a reduction of the plant cost of about $2 million if construction of a trickling filter is allowed as proposed by one of the other amendments. If a trickling filter plant were allowed, the above figures would be reduced about 10%.) Increasing the state and local share by $10 million, or 140%, will have a very significant financial impact on the local community. Communities that are experiencing rapid growth, such as Las Cruces, and other New Mexico cities would be particularly affected by not funding for growth. We, therefore, cannot support this amendment and recommend that capacity for growth remain grant eligible.

(2) Amendments to Section 202a, Paragraph I and Section 204(a)(5). Reading these two proposed amendments in relation to each other raises the question of whether the federal share includes funding for interceptor reserve capacity. We, again, recommend that reserve capacity for growth remain grant eligible.

(3) Amendment to Section 204(a)(5). Local funding of facility planning and design plans with reimbursement to come when grant for construction is received. In the case of Las Cruces, the Facility Plan/Environmental Impact Statement costs are about $250,000. The design cost is estimated to be about $1.6 million. If state funds are not available and the local government is required to fund the planning and design phase, sewer rates would have to be raised to provide required bonding capacity. Since facility planning and design must follow federal guidelines, which significantly increases the cost of these phases, we recommend that federal participation in the planning design phases continue. Concerning federal guidelines for facility planning, we recommend a review of the guidelines with consideration to streamlining the process. To meet federal requirements the Las Cruces Facility Plan will take 18 - 20 months. We consider 6 - 8 months with a corresponding decrease in costs to be more reasonable.

(4) Amendment to Section 202(a)(1). This amendment deals with a reduction in federal funding from the present 75% to 65% through 1984, then to 55% thereafter. To offset the effect of reducing federal funding we would expect a corresponding reduction in federal regulatory requirements.

(5) Amendment to Section 204(c)(1). This amendment would require the engineer to continue his relationship with the grantee for one year after plant start-up for the purpose of supervising operations and training operators. It would further require the owner and operator of the treatment works to certify to EPA that the treatment works meets the design specifications and effluent limitations; and if such certification cannot be made, requiring the correction of deficiencies at other than federal expense. This raises some concerns based on our experience with the present plant.

As previously noted, the plant was modified under a Federal/State Grant to meet the requirements of P.L. 92-500. The plant has never consistently met discharge requirements. The State and Federal Agencies place all responsibility on the City, but, the design criteria used by the City and its engineer was dictated by the State and approved by the Environmental Protection Agency. The environmental assessment prepared for the project cautioned against the dictated design but was apparently ignored by the approving agencies. The result is that Las Cruces has a plant that produces an effluent of no better quality than the old plant at several times the cost of the old plant, with the prospect of spending additional money to avoid facing enforcement action. The point is that the regulatory agencies should not be allowed to dictate criteria, then hold the cities responsible for failures. All agencies involved should be held responsible for their actions.

(6) Amendment to Section 216. We agree that priority should be given to projects "which demonstrate that significant public health or water quality benefits will be achieved, and in particular to projects having the greatest effect on the improvement of water quality." Where does this put the projects that have lesser effects on the improvement of water quality when it comes to enforcement action? The present New Mexico Priority Rating System favors the preservation of those surface waters which are the most suitable for recreation and support of desirable aquatic life. The result is that projects on the Upper and Middle Rio Grande are funded ahead of those on the Lower Rio Grande, yet those of us on the Lower Rio Grande must meet the same deadlines and be subject to the same enforcement action. WE project the result of this amendment could be cities discharging to high quality waters will receive funding and those of us discharging to lower quality waters will receive enforcement action. We recommend a provision whereby enforcement action also follows the priority list.

(7) Amendment to Section 304d. We strongly support the amendment that "Facilities such as oxidation ponds, lagoons, and trickling filters shall be deemed the equivalent of secondary treatment when the owner or operator of a publicly owned treatment works makes a showing satisfactory to the administrator, that, taking into account local climate, the limited population served, and assurances as to the operation and maintenance of such facility, water quality will not be adversely affected by deeming such facilities as the equivalent of secondary treatment."

We estimate that this provision will reduce the cost of our proposed treatment works by at least $2 million and the annual operation and maintenance costs by at least $100,000.

Additionally, we would like to propose the idea of federal reimbursement of local funds expended on grant eligible items when the expenditure is made prior to the time the federal grant is available. To explain this concept, consider the case of Las Cruces. It is likely that Las Cruces must locally fund some improvements to our treatment works to provide facilities to handle increasing flows between now and 1989 when the new plant may be built. We propose to construct parts of the new plant which would benefit us now and which could be integrated into the new facility. Our proposal is that communities should be credited for that cost at the time the grant is made. This is reasonable since that part of the plant would be grant eligible if construction was delayed until grant funds were available. This would encourage local governments to expend funds for interim solutions.

A "catch 22" implication of this is that if local funds are expended and a water pollution problem is corrected, the locality would likely receive a lower priority for grant funding since priorities are normally assigned based on the existance of a water pollution problem. Perhaps adjustments could be made so as not to jeopardize the federal grant by spending local funds.

Again, we appreciate the apportunity of making these comments and urge their careful consideration in finalizing the amendments.

U.S. Senate Committee on Environment and Public Works
Public Hearings, Santa Fe New Mexico, August 10, 1981

Prepared Testimony of Dr. Lee Wilson

I appreciate the opportunity to offer comments on the proposed Clean Water Act Amendments of 1981. For convenience I will focus my discussion on the most detailed set of amendments - those approved on July 15th by the Subcommittee on Environmental Pollution.

I certainly concur with the philosophy that EPA's construction grants program is in need of significant reform. Many of the proposed changes to the Clean Water Act will definitely reduce the costs of wastewater management without any significant sacrifice in environmental quality. For example, the modified definition of secondary treatment (Section 20) will allow many communities to use lower-cost wastewater facilities which are more easily operated, and without any adverse effects on water quality. Indeed, this amendment will lead to substantial reductions in energy use and in turn will be of economic and environmental benefit to all of us.

I also endorse the proposal to require and fund engineering services during plant startup (Section 11). This should not only improve facility compliance, but it will provide many communities which much-needed expertise they could not otherwise obtain.

The most substantial concern I have about these amendments is related to the protection of ground water. The proposed changes continue the approach that has always prevailed in this legislation - ground water is either ignored completely or at best mentioned in passing or by implication. Given EPA's accellerating interest in ground water and the specific mandates in the Safe Drinking Water Act, I think it is time that the Clean Water Act clearly assign equal priority to the protection of surface and ground water.

If you agree with this notion then I suggest that the language in several sections of the amendments might need some adjustment. For example, Section 18 requires revision of 'water quality standards' and Section 17 requires that priority lists be based on 'water quality benefits'. New Mexico already has ground-water standards and a priority list based on both surface and ground-water protection. At the least these sections should be changed to make it clear that New Mexico's approach is consistent with the Act. Further, I'd like to see you provide a mandate for other states to match the New Mexico performance. This could be done by requiring explicit consideration of ground-water protection throughout the construction grants program, as in the setting of priorities.

An even more important change is needed in Section 12 which, as of 1985, would allot funds based on the impact of publically owned treatment works on water quality. It is imperative that this funding not be limited to surface water impacts (i.e. making streams fishable and swimmable); protection of ground water must have equal importance. If this is not done, New Mexico (and other western states) may not receive a level of funding adequate to address existing wastewater-related problems.

I'll turn now to some specific comments on the individual sections of the proposed amendments.

Section 2. This section forces local funding of Step 1 work; I fear that if this is not changed, many communities will not undertake adequate wastewater planning. There needs to be a strong federal incentive for good wastewater planning. Such an incentive will not occur if the federal share in Step 1 work is both small and many years away. If, instead, you allow a federally funded facilities plan, these communities can assess their problems and at least take some interim measures to improve their wastewater management system, while waiting the many years needed to move up the priority list for design and construction.

Section 3. If the proposed major reductions in the federal share remain intact, then I think some of the other proposed funding cutbacks should be reconsidered (see my comments on Sections 2, 4, 9). Further, there should be a clear mandate to reduce the regulatory obstacles which so often delay the construction grants process and which, through inflation, drive project costs upward.

Section 4. I do not agree that collection lines should be completely excluded from the list of grant-eligible facilities. There are situations where there is a definite environmental and water-quality benefit to the construction of such facilities; in such cases, federal funding is certainly appropriate. In particular I am thinking of the many established agricultural communities in the valleys of New Mexico where traditional Hispanic settlements occur at a very high density and where cesspools and inadequately sized septic tank drainfields provide for sanitation. Most of these communities would never be able to afford a centralized wastewater system - even a very innovative one using appropriate technology - unless there is federal funding for collection lines. If you eliminate even the prospect of such funding, I fear,you erase any real prospect that these towns can solve what is often a very significant public health problem. Therefore I urge you to allow the funding of collector lines for communities that were established prior to 1980 (or 1973), if and where it can be shown that such funding would have benefits to public health or water quality.

Sections 5, 6 and 16. I endorse the continued support for innovative or alternative wastewater management systems. However, many communities are reluctant to break away from the proven concepts. I suggest that EPA regulations be made more flexible with respect to this program, that more research and demonstration projects be funded, and that successes in the program be well publicized.

Section 8. The concept of a turnkey program is fine - provided that it is structured so that small (and even large) communities do not have to carry too much of the costs of facility construction, and provided that there is some assurance that EPA will follow a reliable, consistent approach in repaying these costs. As now stated, it sounds as though this Section may prevent many New Mexico towns from participating in the grants program.

Section 9. In eliminating funding for reserve capacity, the amendments move toward a good idea - that growth should pay for itself. However, as written, I think this section both goes too far and does not go far enough!

First, I'd like for you to consider providing at least some federal funding for reserve capacity in 'growth-impacted' communities, such as energy boomtowns and sunbelt retirement areas; this funding might be at a reduced percentage and would include, primarily, the treatment system and major interceptors.

On the other hand, despite my general resistance to federal regulation, I suggest that this is one area where EPA may need to develop specifications which ensure that grantees can and will fund properly sized facilities that will accomodate projected growth. That is, there must be some real guarantees that necessary expansion in capacity will be provided as needed. This will help assure the development of centralized systems rather than a proliferation of independent treatment and collection systems.

Section 11. Much more needs to be done to make communities self-sufficient in the operation of their wastewater facilities. I'd like to see you go beyond the requirement to keep an engineer for a year. For example, EPA should develop an expanded and modified program of value-engineering which applies throughout project design, construction and operation. And, EPA should be funded to provide much more operator training and quality control.

Section 12. In your funding allocation formula, please consider addition of a sunbelt growth factor.

Sections 17 - 19. These sections relate to deadlines and priorities and are intended to provide a more realistic yet effective construction program.

To complement these changes, I suggest you give some positive direction toward a more realistic enforcement policy. Quite frankly, many citizen and environmental groups have little confidence in effective enforcement of NPDES permits where there are significant violations of water quality standards; yet at the same time there are communities faced with enforcement actions even though stream standards (not effluent standards) are being met.

I'd like to see you mandate each State to develop an enforcement priority strategy along with the construction priority list; and then provide enough funds to see that enforcement takes place as promised. For my own part, once a Step 3 is completed, enforcement should be very vigorous. Similarly, those high up on the priority list should be subject to strict controls which address any problems capable of being solved prior to major construction. On the other hand, facilities which are far down on the construction grants list are, by definition, not causing a major problem and should not be the focus of major enforcement actions.

In conclusion, I commend the Administration and the Committee for their interest and efforts in revising the construction grants program and I appreciate the opportunity to provide input at this stage of the legislative process. I do support many of the proposed reforms, but I also believe that there are places where the amendments may go too far (as by cutting off all funding for collection lines) and where they don't go far enough (as by not providing explicitly for the protection of ground water). I will be glad to answer questions with regard to this brief testimony, and I am available to you or your staff at any future time should you want more information on any of the points I have raised today.

# STATEMENT OF
# DR. JOHN HERNANDEZ
# DEPUTY ADMINISTRATOR
# U.S. ENVIRONMENTAL PROTECTION AGENCY
# BEFORE THE
# SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION
# COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
# UNITED STATES SENATE

AUGUST 10, 1981

Mr. Chairman and Members of the Subcommittee, I am pleased to be here this afternoon to review with you the Administration's construction grants legislative reform proposals. As you know, I had the opportunity to explore this subject in my testimony before the full Committee in early June. However, as much as I enjoyed that occasion, I must tell you honestly that it gives me greater pleasure to address these issues in my home state of New Mexico. I have had the privilege of working here directly with the people and communities who must deal with the immediate problems of waste water treatment on a day to day basis, and I welcome the opportunity to be with them today.

The most significant challenge facing the construction grants program today is the rapid increase in the estimated cleanup costs necessary to meet the requirements of the Clean Water Act. In just the four year period from 1976 to 1980, treatment needs increased 25 percent, from $96 billion to $120 billion. Under present statutory provisions, Mr. Chairman, the Federal share of this $120 billion comes to $90 billion.

The magnitude of these costs clearly exceeds the ability of the Federal budget to respond. The issue before us, then, is how to deal with this situation.

For its part, the Administration is firmly committed to the proposition that the environmental objectives of the Clean Water Act can and will be achieved. To do this, however, requires some hard choices and a greater effort to maximize the return on our Federal water pollution control investment.

Within the Agency, we have a number of initiatives underway to increase the effectiveness and efficiency of the construction grants program. These include a greater emphasis on deregulation, state delegation, and improved operation and maintenance. Essential as these efforts are, however, we can only go so far administratively.

In order to cost effectively target the construction grants program, certain legislative reforms are needed as well. In my remarks today I would like to focus on these reforms and explain why we believe they are critical to the success of the construction grants program.

The legislative proposals contained in the Administration's bill, S. 975, are an essential part of the President's overall economic reform program. In developing these proposals, we have attempted to address the major challanges facing the program and direct Federal funds to those projects which will achieve the greatest water quality improvement.

To explain how we intend to do this let me turn to the specific proposals contained in the reform package.

Limited Eligibilities

The primary focus of the grants program is emphatically on the achievement of water quality improvements, not public works. In order to redirect the program towards providing the greatest water quality benefits per dollar invested, it is first essential to identify those projects which best address the highest priority pollution needs. Towards this end, the Administration's reform proposal includes an amendment to limit grant assistance eligibility to those categories which are treatment-related. These are secondary and advanced treatment systems, cost-effective alternatives such as on-site systems or small community systems, and new interceptors and major appurtenances. These were essentially the grant eligibility categories that existed prior to the 1972 Act. This provision will reduce the Federal share from $90 billion to $42 billion.

There are a multitude of water pollution problems in each state, some treatment-related, others growth-oriented. It is vital that we focus our limited national resources on the highest priority water pollution control needs in each state. We cannot afford to have states subsidize non-treatment needs in other areas, while significant water pollution control needs still exist within their own boundaries.

## Reserve Capacity

Consistent with this approach, the reforms also focus on correcting existing high priority pollution problems, commonly referred to as "backlog". "Backlog" in this sense means existing, 1980 treatment-related water pollution needs. We think it is essential to use our limited resources to address those problems which have the greatest impact on current water quality problems rather than those problems which may or may not exist in the future. Therefore we propose to provide construction (Step 3) funds only for the capacity needed to treat existing community needs.

We are, however, continuing to subsidize the responsibility of local government to plan for existing and future needs. This is accomplished by retaining Federal grant eligibility for the overall facility planning (Step 1) and the design of the facility (Step 2). By retaining Federal eligibility for the actual cost of constructing a facility geared to the needs of existing (1980) population only, it is our belief that local government will take an even more serious look at the true priorities they want to assign to the projected needs of future populations.

In this way, local governments can determine the most cost-effective alternatives for their needs and better assess the need to invest their funds in future development. It is expected that this approach will provide an incentive for a closer scrutiny of cost-effective and innovative and alternative technologies.

Our analysis indicates that by focusing on treatment-related needs for existing populations, we will achieve an additional $19 billion reduction in the federal costs. In combination with limited eligibilities, this reduction will lower the total federal share to $23 billion.

Allotment Formula

In order to ensure targeting of limited resources to the States in a fair manner which directly reflects their treatment-related water pollution control needs, the Administration proposes to revise the present allotment formula under section 205(c).

The proposed amendment to section 205(c) will authorize a modified formula for allotting FY 1982 appropriations. Under our proposal, each State will receive a share based on its grant eligible needs as a percentage of total national grant eligible needs. Under this proposal, each State's allotment will more accurately reflect that State's treatment-related needs in relation to the total available monies in the program.

The current allotment formula is a convoluted mixture of needs categories, population, floors, and hold harmless provisions. It is impossible to relate this formula to actual water quality needs.

The Administration's proposal, in essence, goes full circle to the proposal made by this Committee in 1972 -- to focus available funding on needs in categories which have the greatest impacts on water quality improvements. A fair and equitable distribution system should not be weakened by the historical pressures which have plagued the program.

## State Management Assistance

In addition to revising the allotment formula, a new workload-related formula is proposed for computing section 205(g) State program administration grants. Under the current formula, the management assistance funds available for some States are not sufficient to enable those States to effectively administer the construction grants program. The available funds can fluctuate widely from year to year and bear no relationship to the State's responsibilities under a delegated program.

Under the proposal submitted by the Administration, the maximum funds available to a State for program management assistance is based on one percent of the amount of unexpended and unobligated funds within the State at the start of the new fiscal year, or $400,000, whichever amount is greater. This formula will reflect the actual level of administrative effort to be expended by each State in a given year. It recognizes that the workload for a state is comprised of more than new grants being authorized in each fiscal year. Rather, each delegated State must bear the responsibility of managing and guarding the fiscal integrity of the billions of dollars in grants which are still underway from previous fiscal years. Allocating management assistance in terms of each State's actual workload will help to ensure both better management and more cost-effective targeting of federal funds.

Reimbursement

Section 206 provides for reimbursements of projects constructed without Federal funds. Appropriation Acts for previous years, including that for FY 1981, have prohibited the Administrator from implementing those provisions. We recommend repeal of the Section 206 authority for future appropriations. In order to respond to claims now under litigation which may be found eligible, this amendment however, retains authority for the Administrator to pay, out of funds remaining from past appropriations, certain costs of projects funded prior to 1972.

By removing the unrealistic expectation of future year reimbursement, communities will have an incentive to focus on their current treatment-related needs in a responsible manner. Also the delays and confusion resulting from no appropriation and project audits many years after project completion will be avoided.

Determination of Priority

In keeping with the objectives of cost-effectively targetting limited Federal resources, the Administration proposes to limit funding not just to projects which are primarily designed to reduce pollution, but also to those specific projects which will, in fact, achieve significant public health or water quality benefits. Priority should be given to such projects in major urban-industrial areas subject to the State's decision to set aside funds for small communities. Each state would determine which projects meet these requirements.

States would retain full discretion in determining the appropriate priority among their projects. This will result in significant public health or water quality benefits and will better reflect the needs of major urban-industrial areas. Under these criteria, the worst pollution problems in a state (by volume and location) will be addressed. In addition, the States will retain their flexibility to focus funding on small or rural communities by setting aside funds to be used for alternative systems in rural communities. This concept of state flexibility to establish a dual priority list system, one for large, the other for smaller communities, builds on a concept first developed administratively. This was later reflected in the 1977 Amendments to the Clean Water Act in the mandatory set-asides for rural communities and for innovative and alternative set-asides.

## Optional Set-asides

In addition to maintaining the basic authority of the State to establish the priority list, we have proposed that the State have additional flexibility to determine the best way of addressing its needs. In this regard, the current provision for mandatory, inflexible set asides, for alternative projects in rural States (Section 205(h)) and for innovative and alternative projects in all States (Section 205(i)), would be revised to provide that such set-asides will be established as requested by the Governor.

We strongly support the innovative and alternative and rural programs. EPA has and will continue to devote significant resources to further the implementation of these programs.

In administering the program, we have become convinced that States need more flexibility in tailoring the use of available funds to their particular needs.

Therefore, under the Administration's proposal, a State would be able to devote a percentage of its allotment to alternative systems in rural areas, or to using the authority for an incentive grant to encourage innovative/alternative projects. Under an increased deregulated and delegated approach it is appropriate that the States have the flexibility to make these decisions.

Change in Federal Share

To give States further latitude in addressing their highest priority needs, we also propose an expansion of the State's authority to modify the Federal share by either project step or project category. This will allow a state's allotment to be spread over more projects -- with the federal government picking up a smaller share of an individual project's cost. Under the existing law, enacted in October 1980, the Federal share of construction costs is 75 percent (or 85 percent for innovative and alternative projects) unless the Governor elects to reduce that percentage uniformly for all steps and categories of projects throughout the State.

We propose to permit the State to reduce the Federal share on a category-by-category basis as well as by project step. As a result, the State will have the option of concentrating funds in one or two categories, or of spreading them out over all three.

We believe this greater flexibility is vital to permit the States to respond to their individual priorities, given limited Federal funds available for projects.

## CONCLUSION

This budget-related reform legislation is vital to meeting our goals of cost-effectively targeting the program. At the same time it is intended to simplify Federal requirements, improve efforts toward state delegation, and in the process, move actual decision-making to the level of government closest to the problem. To accomplish this, our program reforms have two primary objectives: the construction of cost-effective projects and greater state flexibility.

In pursuing these goals, I believe that EPA can seize the initiative in two of President Reagan's key policy areas -- regulatory reform and the new federalism by constantly watching for ways to shift the decision-making process from the banks of the Potomac to the local governments and state capitals. Deserting an adversary role, EPA will seek to bring state governments into the grant process as full and active partners in the achievement of our environmental goals.

This concludes my statement. I would be happy to answer any questions you may have.

# STATEMENT BY WALTER G. HINES BEFORE THE
# SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE HEARING
# SANTA FE, NEW MEXICO AUGUST 10, 1981

MR. CHAIRMAN, DISTINGUISHED MEMBERS OF THIS COMMITTEE, AND LADIES AND GENTLEMEN; MY NAME IS WALTER G. HINES. I AM A WATER RESOURCE ENGINEER AND OWNER OF A CONSULTING BUSINESS IN SILVER CITY, NEW MEXICO. MY MAJOR INTEREST FOR THE LAST 15 YEARS HAS BEEN IN THE FIELD OF RIVER HYDROLOGY AND RIVER WATER QUALITY. MY EXPERIENCE INCLUDES WORK WITH THE U.S. ARMY ENVIRONMENTAL HYGIENE AGENCY, U. S. GEOLOGICAL SURVEY, AND PROFESSIONAL CONSULTING. I HAVE DESIGNED AND CONDUCTED STUDIES OF STREAMS, RIVERS AND RESERVOIRS THROUGHOUT THE UNITED STATES INCLUDING THE WILLAMETTE, LOWER COLUMBIA, COASTAL CALIFORNIA, UPPER MISSISSIPPI, AND PECOS RIVERS.

SPECIFICALLY, I WANT TO COMMENT ON A SUBJECT THAT IS AT THE VERY HEART OF YOUR ABILITY AS LEGISLATORS TO MAKE SOUND DECISIONS REGARDING POLLUTION CONTROL AND WATER QUALITY MANAGEMENT OF THE NATION'S SURFACE WATERS - NAMELY THE CRONIC INADEQUACY OF EXISTING ROUTINE MONITORING PROGRAMS TO PROVIDE DATA FOR ELUCIDATING WATER QUALITY TRENDS AND POLLUTION CAUSE-EFFECT RELATIONSHIPS.

FOR DECADES, RIVER QUALITY MONITORING NETWORKS HAVE USED ROUTINE-INTERVAL FIXED-STATION SAMPLING TECHNIQUES. PRESENT DAY EXAMPLES INCLUDE: EPA'S NWQSS AND BASIC NETWORKS, THE USGS' NASQAN PROGRAM, AND A HOST OF STATE NETWORKS. UNDER SUCH PROGRAMS, A TYPICAL 200 MILE RIVER REACH HAS ONE OR TWO FIXED STATIONS AT WHICH ONE OR TWO SAMPLES PER MONTH ARE COLLECTED FOR A STANDARD "LAUNDRY LIST" OF WATER QUALITY VARIABLES. UNDER THE ROUTINE MONITORING PROGRAMS, VIRTUALLY NO REAL CONSIDERATION CAN BE GIVEN TO THE HYDROLOGIC CIRCUMSTANCES OR WASTE LOADING CONDITIONS WHICH CAUSED THE OB-

SERVED WATER QUALITY. CONSEQUENTLY, ATTEMPTS TO DEFINE WATER QUALITY TRENDS AND CAUSE-EFFECT RELATIONSHIPS HAVE BEEN HIGHLY UNSUCCESSFUL.

I HAVE ATTATCHED TO THIS STATEMENT A TABLE WHICH SUMMARIZES WHAT I BELIEVE ARE THE BUILT-IN INTERPRETIVE DEFICIENCIES OF ROUTINE MONITORING. I REQUEST THAT THE TABLE BE INCLUDED AS PART OF THIS STATEMENT IN THE HEARING RECORD.

CRITICISM OF ROUTINE MONITORING PROGRAMS CULMINATED THIS YEAR WITH THE COMPTROLLER GENERAL'S REPORT TO CONGRESS, BETTER MONITORING TECHNIQUES ARE NEEDED TO ASSESS THE QUALITY OF RIVERS AND STREAMS (CED-81-30, APRIL 30,1981). IN THE REPORT, GAO RECOMMENDS THAT THE SECRETARY OF INTERIOR AND THE ADMINISTRATOR OF EPA DISCONTINUE THE ROUTINE MONITORING NETWORKS AND SHIFT TO A PROGRAM OF SPECIAL WATER QUALITY STUDIES.

I STRONGLY ENDORSE THE GAO RECOMMENDATION. FURTHER, I WOULD LIKE TO BRIEFLY OUTLINE FOR THE COMMITTEE AN ALTERNATIVE STRATEGY FOR MONITORING THE QUALITY OF THE NATIONS STREAMS WHICH IS CONSISTENT WITH THE GAO RECOMMENDATION. THE GOAL OF THE NEW STRATEGY IS TO DRAMATICALLY IMPROVE THE UTILITY OF MONITORING DATA FOR THREE MAJOR PURPOSES: (1) POLLUTION CAUSE-EFFECT ANALYSIS; (2) WATER QUALITY TREND ANALYSIS; AND (3) STREAM STANDARDS DEVELOPMENT AND COMPLIANCE.

THE KEY ELEMENT OF THE STRATEGY IS THE USE OF WATER QUALITY "MINI-SURVEYS" AS A REPLACEMENT FOR ROUTINE MONITORING. THE PURPOSE OF EACH SURVEY WOULD BE TO DEFINE A STATISTICALLY RELIABLE PROFILE OF WATER QUALITY OVER A 50-300 MILE STUDY REACH UNDER CAREFULLY TIMED AND MEASURED HYDROLOGIC AND WASTE LOADING CONDITIONS. A TYPICAL MINI-SURVEY WOULD INCLUDE 10 SAMPLING STATIONS (10-20 MILES APART) WITH 12-15 SAMPLES (PER PARAMETER) COLLECTED AT EACH STATION OVER A 2-3 DAY PERIOD. USING WEATHER FORECASTS AND DAILY

READINGS FROM USGS STREAMFLOW GAUGES, SURVEY CREWS WOULD AWAIT THE OCCURRENCE OF A PARTICULAR HYDROLOGIC CONDITION (E.G., EXTREME SUMMER LOW FLOW, WINTER ICE COVER, SPRING SNOWMELT FLOOD) BEFORE BEGINNING EACH SURVEY. SAMPLES OF WASTEWATER FROM MAJOR POLLUTION SOURCES WOULD BE COLLECTED AS AN INTEGRAL PART OF EACH MINI-SURVEY.

SURVEYS WOULD BE REPEATED AT SELECTED INTERVALS (1-4 TIMES PER YEAR) TO GENERATE A CUMULATIVE SERIES OF DATA SETS, EACH AMENABLE TO GRAPHICAL EVALUATION, STATISTICAL ANALYSIS, AND WATER QUALITY MODEL CALIBRATION AND VERIFICATION. THE WATER QUALITY PARAMETERS AND SAMPLING PERIODS ADDRESSED BY THIS PROGRAM WOULD NOT BE ARBITRARY AS IS LARGELY THE CASE WITH THE EXISTING ROUTINE MONITORING PROGRAMS. RATHER, THEY WOULD BE TAILORED TO ADDRESS THE SPECIFIC PROBLEMS AND CRITICAL HYDROLOGIC SEASONS OF EACH RIVER.

THE FUNDAMENTAL INTERPRETIVE POWER OF THE MINI-SURVEY PROGRAM IS INHERENT IN ITS TWOFOLD DESIGN--NAMELY TO OBSERVE NOT ONLY THE EFFECT, BUT ALSO TO MEASURE WHAT CAUSED THE OBSERVED EFFECT.

I HAVE PERSONALLY SEEN THIS METHODOLOGY WORK TIME AND TIME AGAIN ON STREAMS AND RIVERS THROUGHOUT THE COUNTRY. I AM CONVINCED THAT SUCH A PROGRAM CAN, WITHIN A FEW SHORT YEARS, LEAD TO A VASTLY IMPROVED UNDERSTANDING OF THE MAJOR WATER QUALITY PROBLEMS CONFRONTING US TODAY. COSTS WOULD DIFFER LITTLE FROM THOSE PRESENTLY ASSOCIATED WITH THE EXISTING ROUTINE NETWORKS.

MR. CHAIRMAN, I URGE THIS COMMITTEE, CONGRESS AND OTHER LEARNED PERSONS WITHIN THE ADMINISTRATION TO GIVE THOUGHTFUL CONSIDERATION TO THE NEED FOR A BASIC CHANGE IN OUR WATER QUALITY MONITORING PROGRAMS.

MR. CHAIRMAN, LADIES AND GENTLEMEN, THAT CONCLUDES MY REMARKS. THANK YOU FOR THE OPPORTUNITY TO MAKE THIS STATEMENT HERE TODAY.

1. Overstandardization. Preoccupation with standard lists of parameters rather than focusing on key parameters specific to the water quality problems of each basin. The attempt to sample for "everything" and follow quality throughout the year actually has the opposite result -- a series of confounding, heterogeneous data that define nothing with respect to any one parameter in any one critical season.

2. Poor Hydrologic Framework. The arbitrary, fixed nature of sampling precludes adequate definition of quality during critical seasonal periods (e.g., summer low flow, winter ice cover, spring snowmelt flood). Despite the fact that streamflow and water temperature data from USGS stations are available on a near real-time basis, they are seldom used for "tailoring" sampling to coincide with critical periods. The wide dispersal of stations does not permit definition of reachwide profiles of quality tied to specific hydrologic conditions.

3. Inadequate Corollary Data. Essential corollary information for interpreting quality data is not collected in conjunction with the monitoring. The lack of conjunctive waste loading data is a severe deficiency in trying to analyze river quality trends and pollution cause-effect relations. Nonpoint source related problems require an accounting of year-to-year land use and vegetal conditions to corrolate with the observed quality data.

4. Poor Quality Control. Because so few samples are collected during each period, laboratory and field quality control is difficult. Statistical error partitioning techniques cannot be validly applied in scrutinizing such data.

5. Lack of Interpretive Methodology. The routine networks appear to have been designed with only superficial consideration of how the collected data were to be interpreted. For the reasons summarized in (1) - (4), neither statistical methods nor simulation models can be validly used for interpreting the network data. Consequently, the data are of dubious value for decisions relating to national strategies for waste treatment and water quality management.

Table 1. Commonly Cited Reasons for Poor Utility of Data from Routine Sampling Networks